



CASE NO. 5
ORT 1871

SPECIAL BOARD OF ADJUSTMENT NO. 306

THE ORDER OF RAILROAD TELEGRAPHERS

VS.

THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY

STATEMENT
OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on The New York, New Haven and Hartford Railroad that:

1. The Carrier violated the agreement between the parties beginning November 7, 1949, when it discontinued the first trick Signal Station Operator's position at Old Saybrook, Connecticut, Signal Station and thereafter required the Agent from the freight and passenger agency station to perform the work of the first trick Signal Station Operator, Monday through Friday of each week, at the signal station, in addition to the work of his own position; and that
2. The Carrier shall be required to compensate the senior idle extra employe (as of each date) a day's pay for each day the freight and passenger agent was required to work the Signal Station Operator's position.
3. The Carrier further violated the agreement between the parties when it assigned a regularly assigned relief employe to the first shift Signal Station Operator's position at Old Saybrook on each Saturday and Sunday subsequent to November 7, 1949, in lieu of assigning the work on these dates to an extra employe; and that
4. The Carrier shall now be required to compensate the senior idle extra employe (as of each date) a day's pay for each Saturday and Sunday a regularly assigned relief employe was permitted or required to assume the work on these days.
5. The Carrier violated the agreement between the parties beginning May 2, 1949, when it required the Operator-Clerk at the Freight and Passenger station at Old Saybrook to perform the work of the first trick Signal Station Operator in addition to the work of his own position; and that
6. The Carrier shall be required to compensate the senior idle extra employe (as of each date) a day's pay for each day the operator-clerk was so required to work as Signal Station Operator at this point.
7. The Carrier violated the agreement between the parties commencing October 3, 1954, when it discontinued the Old Saybrook Signal Station Operator's position (2:15 PM - 10:15 PM) and required the Operator-Clerk at the Freight and Passenger Station to perform work

"of the Signal Station Operator at the signal station in addition to the work of his own position at the Freight and Passenger Station; and that

8. The Carrier further violated the agreement between the parties when on September 28, 1954, it issued notice instructing that

'Effective Sunday, October 3rd, the following changes will become effective at Old Saybrook.

The temporary position of Sig. Sta. Opr. on the first trick and the permanent position of Sig. Sta. Opr. on the second trick will be permanently discontinued, and the hours of the 3rd trick Sig. Sta. Opr. will be changed to 10:15 PM to 6:15 AM with relief days Wednesday and Thursday.

The position of Agent Opr. is reclassified as Agent-S.S. Operator with hours 6:15 AM to 2:15 PM and he will be required to handle the interlocking at Old Saybrook Tower as may be necessary. Relief days Sat. and Sun. as at present.

The hours of the Operator Clerk will be reclassified as Sig. Sta. Opr. Clerk with hours of 2:15 PM to 10:15 PM and he also will handle the interlocking at Old Saybrook Tower as required. Relief days will be Monday and Tuesday.'

and required the incumbents of the Agent Operator's position and Clerk Operator's position at the Freight and Passenger station to work the two Signal Station operators' positions at Old Saybrook Tower in addition to their own positions; and in addition removed the incumbents of the first and second tricks at the Tower by arbitrarily assigning their positions to the Agent Operator and the Operator Clerk; that

9. The Carrier shall be required to restore the second shift position at Old Saybrook Station, and the incumbent of the position who was so removed shall be compensated the equivalent of one day's pay (8 hours) for each and every day that such position was not filled - less pay received on other positions after October 3, 1954; that

10. The employe improperly displaced by the former incumbent of the position of operator, Old Saybrook Signal Station, and all employes subsequently displaced as a result of the declared abolishment, shall be compensated the difference between actual earnings and that which they would have earned if they had remained on the positions from which displaced improperly, together with compensation to which entitled under the terms of Article 29 of the Agreement; and that

11. For each and every day, commencing October 3, 1954, that the position of operator, Old Saybrook Signal Station is unfilled, the senior available extra employe (as of each date) shall be compensated the equivalent of one day's pay, 8 hours, at the prevailing rate of the position.

"12. The Carrier violated the agreement between the parties when on April 2, 1949, it issued notice instructing that:

'Effective 3:00 p.m. Saturday, April 9, 1949, the first trick S. S. Operator's position at Branford and Davisville are abolished.

Agents Faford and Bump will be required to operate the S. S. at their respective station when required by the train dispatcher.

Relief position held by Mr. Ahern is abolished and the remaining portion of relief position will be covered from the spare board.

Relief position held by Mr. Hopkins will be changed to work as follows commencing Saturday, April 9, 1949:

Saturday	Kingston	7:00 am to 3:00 pm
Sunday	Davisville	7:00 am to 3:00 pm
Monday	Kingston	3:00 pm to 11:00 pm
Tuesday	Davisville	3:00 pm to 11:00 pm
Wednesday	Davisville	11:00 pm to 7:00 am
Thursday	Kingston	11:00 pm to 7:00 am

Messrs. Snyder, Ahern and Capwell may make displacement in accordance with the Telegraphers' Agreement.

H. F. Donnelly
Superintendent'

and removed the incumbents of the respective Signal Stations and required the Freight and Passenger Agents to work the Signal Station Operators' positions in addition to working their own positions as freight and passenger agents; therefore

13. The Carrier shall be required to restore the first trick Signal Station Operators' positions at Davisville, R.I. and Branford, Conn. to their former status as that prior to April 9, 1949.

14. The Carrier further violated the agreement between the parties beginning April 9, 1949, when upon assigning these two agents to work the Signal Station Operators' positions, it failed to assign them to shifts of eight consecutive hours as required by the Agreement, i.e., at offices where two or more employes covered by the Telegraphers' Agreement are employed, each of such employes will work on an eight consecutive hour basis, and required them to work shifts extending over a nine-hour period; for which

15. The Carrier shall be required to compensate each of these employes one hour's pay at overtime rate for each day so worked, between April 9, and June 8, 1949.

16. The Carrier violated the agreement between the parties when, on May 11, 1951, it improperly advertised a position of Signal Station Operator at Davisville, R.I., as Operator-Clerk and thereafter required the Signal Station Operator to suspend work on the position

"of Signal Station Operator to perform service in the freight station at Davisville; therefore

17. The Carrier shall now be required to properly advertise the position as Signal Station Operator pursuant to Article 15 of said agreement.

18. The Carrier violated the agreement between the parties when, effective November 7, 1949, the position of first trick Signal Station Operator at Guilford, Connecticut Signal Station Tower, was discontinued and the work of the position (and the position) was arbitrarily assigned to the freight and passenger station agent who was required to perform the work of both positions at both locations; therefore

19. The Carrier shall be required to compensate the senior qualified (idle) extra employe (as of each date) a day's pay for each and every day the freight and passenger agent was required to work the signal Station Operator's position on and after November 7, 1949; and further that

20. The Carrier shall be required to reestablish the first trick Signal Station Operator at Guilford, as such, and advertise same for bid as a permanent position."

FINDINGS:

The basic claims involving Branford and Davisville concerned action taken by the Carrier on April 9, 1949 and were finally declined by the Carrier's highest officer on appeal on October 14, 1949. A subsequent claim concerning a change at Davisville, which did not alter the basic dispute, was finally declined on August 14, 1951.

The basic claims involving Old Saybrook and Guilford concerned action taken by the Carrier on November 7, 1949 and were finally declined on February 22, 1950. Subsequent claims concerning changes at Old Saybrook, which did not alter the basic dispute, were finally declined on March 27, 1953 and January 19, 1955. Obviously the claim declined on the latter date was not appealed to the Third Division, N.R.A.B., within the time limited by the Agreement of August 21, 1954.

Notice of intention to appeal all claims involved to the Third Division was given by letter dated December 29, 1955 and the actual submission was dated January 26, 1956.

The Organization attempts to excuse the delay on the basis that it was awaiting the outcome of a similar case before the Third Division. No standby agreement exists and there is no showing that the Organization sought one nor that the Carrier has in any way treated these as subsisting claims.

Under such circumstances the Third Division has consistently held the Organization to be guilty of laches, particularly in connection with claims which might involve continuing monetary liability. The delay here was so unreasonably long that these claims must be denied on that basis.

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AWARD: Claim denied.

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/s/ Dudley E. Whiting
DUDLEY E. WHITING, REFEREE

/s/ Russell J. Woodman
RUSSELL J. WOODMAN, Employee Member

/s/ J. J. Gaherin
J. J. GAHERIN, Carrier Member

DATED: October 7, 1960