

SPECIAL BOARD OF ADJUSTMENT NO. 132

Parties: THE ORDER OF RAILROAD TELEGRAPHERS
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 22

STATEMENT OF CLAIM: 1. Carrier violated the agreement between the parties hereto when on November 6, 1954, it caused, required and permitted Conductor H. S. Bryan on Train No. 87, an employee not covered by the Telegraphers' Agreement to handle (receive, copy and deliver) a train order at St. Marys, West Virginia, which work was and is solely reserved to employees covered by the Telegraphers' Agreement.

2. Carrier be required to pay to R. E. Nowell, the agent-operator at St. Marys, one special call because of said violation on November 6, 1954.

FINDINGS: Trains 86 and 87 were scheduled to meet at St. Marys. When 86 did not show up at that point the conductor of 87 called the dispatcher who issued a train order to him instructing him to meet train 86 at Eureka instead of St. Marys. The necessity for the change in 87's orders was brought about by reason of the derailment of 86's engine. Carrier pleads an emergency.

The record shows that the Agent-Operator at St. Marys resided 17 miles away from the tower. To call him and await his arrival to copy the train order involved would have resulted in an inordinate delay to train 87. The derailment was clearly an unforeseeable and unforeseen occurrence. In the circumstances of this case the emergency exception in Article 35 clearly applied and the claim is without merit.

AWARD

Claim (1), (2) denied.

/s/ Francis J. Robertson
Francis J. Robertson,
Chairman

/s/ B. N. Kinkead
B. N. Kinkead,
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this 24th day of April, 1957.

July 2, 1957/th