

406-3

AWARD NO. 76
CASE NO. 66
Sub 2597 TE-10441
263/ 2-8-A
(89-57)

SPECIAL BOARD OF ADJUSTMENT NO. 266
THE ORDER OF RAILROAD TELEGRAPHERS

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

- "1) The Carrier violated the Agreement between the parties, when, on May 30, 1957, it required or permitted train service employes, not covered by the Telegraphers' Agreement, to handle (receive, copy and deliver) a train order at Elmhurst (Pennsylvania), in the absence of an emergency.
- 2) The Carrier shall, because of the violation set forth above, compensate the senior idle telegrapher, extra in preference, a day's pay (\$16.93) in accordance with the provisions of Article 3(c) of the Agreement."

OPINION OF BOARD:

A damaged switch obstructed the progress of Train NE-4 at Elmhurst. This comprised an emergency within the meaning of article 3 of the Agreement. Therefore the resulting issuance of train orders directly to this train did not comprise a contract violation.

AWARD: Claim Denied.

/s/ Lloyd H. Bailer
Lloyd H. Bailer, Neutral Member

Dissenting
W. I. Christopher, Employee Member

/s/ R. A. Carroll
R. A. Carroll, Carrier Member

New York, N. Y.
Nov. 25, 1959