

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 Agreement between the parties was violated when, on August 13, 1959 Mr. McNamara, operator, Signal Station 214, Hartford, Connecticut, was improperly disciplined in an abuse of managerial authority and in an arbitrary and discriminatory manner at variance with the evidence, and
2. The Agreement was further violated when on August 13, 1959 Mr. M. Mendes, Jr., operator, Signal Station 214, Hartford, Connecticut, was improperly disciplined in an abuse of managerial authority in an arbitrary and discriminatory manner, completely at variance with the evidence,
3. Mr. McNamara shall be reimbursed for time held out of service July 30, 1959 to and including August 12, 1959 and discipline removed from his personal record.
4. Mr. M. Mendes shall be reimbursed for time held out of service July 30, 1959 to and including August 12, 1959 and discipline removed from his personal record."

FINDINGS:

Claimants were charged with violation of Rule 104 d and after hearing were found guilty and disciplined. That rule provides that "derails must be set in the derailing position except while being used."

On July 29, 1959 at 9:53 P.M. operator McNamara in S.S. 214 lined switch and derail for passage of engine from Highland Main to house lead track. He did not reset the derail in derailing position. He went off duty at 10 P.M. when operator Mendes took over. He did not reset that derail. These failures to reset that derail were brought to light about 10:40 P.M. when an engine ran away on a house track, down the house lead onto the Highland main and into collision with a train on the Hartford-Springfield line.

The principal contention of the organization is that because of the note to Rule 104 that Rule 104 d is not applicable. That note immediately follows Rule 104 and says that rule applies only to hand operated switches. It does not mention the following separate Rules 104 a to 104 g inclusive so it is clearly

inapplicable to them both because of the language used and the physical placement of that note.

Since claimants admitted they did not reset the derail to derailing position, it is obvious that they were guilty of the charge of violating Rule 104 d.

AWARD: Claim denied.

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/s/ Dudley E. Whiting

DUDLEY E. WHITING, REFEREE

/s/ Russell J. Woodman

RUSSELL J. WOODMAN, Employe Member

/s/ J. J. Duffy

J. J. DUFFY, Carrier Member

DATED: June 13, 1961

