

AWARD NO. 2
CASE NO. 2
(ORT FILE: 1773)

SPECIAL BOARD OF ADJUSTMENT NO. 310

The Order of Railroad Telegraphers

and

The Pennsylvania Railroad Company

STATEMENT OF CLAIM: "Time claim filed by A. W. Yoho, Block Operator, for eight (8) hours' compensation June 17, 1954, account EP-2 Engine 9666 receiving permissive block at Roemer with permissive Form K by "GS" at 9:27 PM. Crew called operator at Roemer on wayside phone from Wheatland. Operator at Roemer was instructed by Dispatcher to change block to clear to "GS" and Form K, clear, by "GS" at 11:44 PM." (Lake Division File 21260 - System Docket No. 249)

FINDINGS:

We agree with the Carrier's argument that it already paid this claim; the question is therefore moot, and should be dismissed.

AWARD:

Claim dismissed in accordance with findings.

Signed this 10th day of April, 1961.

/s/ E. A. Lynch
E. A. Lynch, Chairman

/s/ C. E. Alexander
C. E. Alexander, Carrier Member

R. J. Woodman, Employee Member

DISSENT

The Employees submit that this claim TE 8282 should have been decided on its merits. The fact that the top ranking official of the carrier to whom appeals are made paid the monetary requirement without prejudice, due to the commitment made by a subordinate official, does not deny the right of the employes to expect and to have the question involving the violation decided. This claim was progressed to this Board for the sole purpose of having a decision made concerning the claimed violation. The majority have failed in their responsibility to give the employes their right to a decision on the merits.

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

