

AWARD NO. 39
CASE NO. 35
ORT NO. 2944

SPECIAL BOARD OF ADJUSTMENT NO. 355

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

AWARD IN DOCKET NO. 39

STATEMENT
OF CLAIM:

1. Carrier violated the agreement between the parties hereto when on September 19, 1957, it caused, required and permitted an alleged Flagman stationed at Flemington, West Virginia, and a Conductor on a train to communicate directly with the train dispatcher at Grafton, West Virginia, over the telephone at Flemington, and to receive instructions directly from said train dispatcher.
2. Carrier be required to compensate an idle operator pay for one day on September 19, 1957, because of said violation, and pay for one day for an idle operator on all subsequent dates on which similar violations of record occur.

FINDINGS:

Two conversations are involved in this claim. The first, between the Flagman and Dispatcher, comes within our interpretation of permissible conversation.

The second conversation, in consequence of Dispatcher's request made in the conversation with the flagman and Harry Phillips, the conductor on an eastbound mine run:

"Phillips at Flemington -- What do you want?"

"Dispatcher -- You go to Flemington and get in the clear and we have an engine coming out of here with empties and they want you to place some of the mines. I'll call you when they decide what they want you to do."

This latter conversation is of the same character as that involved in Organization's Claim No. 1117, settled by Carrier's letter covering conference held thereon on August 15, 1957 (Docket No. 34, ORT Exhibit No. 2):

"However, in one the conversations of April 25, 1957, a message was sent instructing the crew of train 95 on what to do on arrival x x".
(Emphasis added)

That conversation, plus two others furnishing consist information were acknowledged by the Carrier to be contract violations, and the claims were allowed.

Consequently, we will sustain claim for the conversation involving Phillips and the Dispatcher. Claim for subsequent dates will not be allowed.

A W A R D

Claim sustained to the extent indicated in findings.

/s/ Edward A. Lynch
Edward A. Lynch
Chairman

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

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

Dated at Baltimore, Md.,
this 20th day of February, 1962.