

SPECIAL BOARD OF ADJUSTMENT NO. 355

CASE NO. 21
DOCKET NO. 93
ORT FILE: 2683

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

AWARD IN DOCKET NO. 93

STATEMENT OF CLAIM:

1. Carrier violated the Agreement between the parties hereto when it relieved Mr. E. H. Moyer, Assistant Agent at 58th Street, Philadelphia, Pennsylvania, by an employe not covered by the Telegraphers' Agreement, from June 3 to June 21, 1957, inclusive.
2. Carrier shall now compensate the senior idle operator who should have been used to relieve Mr. Moyer for his vacation one day's pay for each day Mr. Moyer was so relieved by an employe not covered by the Telegraphers' Agreement.

FINDINGS:

We believe a sustaining award is in order in this case. In so stating, we should like to point out several things:

- (a) The Vacation Agreement of December 17, 1941, places responsibility for its administration jointly upon the Local Committee and the Carrier. (Article 4-a, b; 11, and in particular Article 13).
- (b) The Referee's interpretation of Article 10(b) states specifically "that the distribution of work thereunder" need not necessarily be among employees with common seniority, but it is to be definitely understood that the agreement cannot be applied in a manner which will cross craft or class lines." (underscoring added.)
- (c) We do not believe the facts in this case constitute an emergency, within the meaning and intent of Article 27 (e).

A W A R D

Claim that the Agreement was violated is sustained in principle.

Claim for payment "for the senior idle operator who should have been used" is denied because this record discloses there was no extra operator available on the dates in question.

s/ EDWARD A LYNCH
Chairman

s/ B. N. KINKEAD
Employee Member

s/ T. S. WOODS
Carrier Member

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