

AWARD NO. 11

DOCKET NO. 11
GR.DIV.: 3865

SPECIAL BOARD OF ADJUSTMENT NO. 591

THE ORDER OF RAILROAD TELEGRAPHERS

VS.

READING COMPANY

**STATEMENT
OF CLAIM:**

"Claim of the General Committee of The Order of Railroad Telegraphers on the Reading Company, that:

1. Carrier violated the parties Agreement when it required and/or permitted employes not included under our Scope Rule to perform communications of record work at "WS" Tower, Wayne Junction on February 5, 6, 7, 8, and 9, 1962.
2. Carrier shall be required to pay Mr. N. D. Jones a day's pay, at the minimum daily tower rate, for each day of violation for a total of \$103.36."

FINDINGS:

This claim is based upon two alleged violations of the agreement, the issuing of TD-116 forms to train crews by a yardmaster instead of a telegrapher, and a trainmaster reporting trains in and out of a block to the operator at the other end of the block.

It appears that form TD-116 is used to authorize a train movement against the flow of traffic within yard limits and that they have been issued and delivered by yardmasters since 1945, before the first contract with this organization. This being true, it is obvious that it is not work reserved to telegraphers by exclusive past performance and that the parties have not treated it as a train order in such long existing practice. Hence there is no violation of the agreement in this way.

With respect to the block reporting by a trainmaster, this was not denied on the property by the Carrier and the meager showing of custom and practice thereon appears to support the claim that only the operator in charge of one end of a block may perform such work at his location. Hence we find that the claim should be sustained on this basis.

AWARD: Claim sustained.

SPECIAL BOARD OF ADJUSTMENT NO. 591

/s/ Dudley E. Whiting
DUDLEY E. WHITING, CHAIRMAN

/s/ John T. Finnegan
JOHN T. FINNEGAN Dissenting
Organization Member

/s/ V. W. Bigelow
V. W. BIGELOW
Carrier Member

PHILADELPHIA, PA.

JAN 10 1966, 1965.

DISSENT TO AWARD NO. 11

Although this claim was sustained, it was necessary that dissent be registered for the reason next below listed.

I am in accord with the finding that it was violative of the Agreement terms for a Trainmaster to block trains, a non-scope employe. However, the finding that a Form TD-116, used to authorize train movements against the current of traffic, is not a train order because it has not been "treated" as a train order is palpably wrong. Carrier's own operating rules show that a TD-116 form is a train order.

John T. Finnegan
Labor Member SBA 591