

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**Third Division**

**Paul Samuell, Referee**

**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**COLORADO AND SOUTHERN RAILWAY**

**DISPUTE.**—"Claim of the General Committee of The Order of Railroad Telegraphers on Colorado and Southern Railway that the same basic rate of pay be restored as of March 10, 1930, to the Ticket Agent-Telegrapher and the two Ticket Clerk-Telegraphers in the passenger station, joint with Denver and Rio Grande Western Railroad, at Walsenburg, Colorado, during the period of time the office is operated by the Colorado & Southern Railway, as is paid them by the Denver & Rio Grande Western Railroad during the alternate three-year period of time when said office is operated by Denver & Rio Grande Western Railroad."

**FINDINGS.**—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

The parties to said dispute were given notice of hearing thereon. A hearing was had. The Third Division failed to agree upon an award because of a deadlock. Paul Samuell was selected as Referee to sit with the Division as a member thereof and make an award.

An Agreement exists between the parties bearing effective date of June 16, 1924, and which prescribes the rates of pay of Ticket Agent-Telegrapher and Ticket Clerk-Telegraphers in the passenger station of the Colorado and Southern Railway. Prior to March 10, 1927, the latter Company and the Denver-Rio Grande Western Railroad each operated a separate freight and passenger station at Walsenburg, Colorado. Each Railroad Company had an Agent and three Telegraphers and necessary clerical force in their respective stations. The three Telegraphers assigned in the Colorado & Southern Railway Station were required to sell tickets in addition to their other duties, and prior to March 10, 1927, the Schedule provided that the rate of each of these positions was sixty cents per hour.

These two Railroad Companies constructed a joint passenger depot, which was completed and opened for service on March 10, 1927. Under the terms of its joint operation it was provided between the two Railroad Companies, among other things, that the depot would be under Colorado & Southern management and control for the first three-year period, beginning March 10, 1927, and under Denver & Rio Grande Western management and control for the second three-year period, and then alternate between the C. & S. and the D. & R. G. W. each three years thereafter; that the force would consist of one Ticket Agent-Telegrapher, who would be assigned to First Trick, and have charge of the office; one Ticket-Telegrapher on the Second Trick, and the same on the Third Trick; that the First Trick position would be filled by a C. & S. employee when the depot was under the control and management of the C. & S., and would be filled by a D. & R. G. W. employee when it was under the control and management of the D. & R. G. W.; that the Second Trick would always be filled by C. & S. employees, and the Third Trick would be filled by D. & R. G. W. employees.

Prior to the opening of the depot, bids were posted by the C. & S. for one Ticket Agent-Telegrapher to fill the First Trick position for a three-year period, and also a Ticket Clerk-Telegrapher to fill the Second Trick position permanently, and the D. & R. G. W. posted bids for the Third Trick permanent position, and the bidders were sufficiently advised as to the terms of the joint operation.

The rate of sixty cents per hour paid by C. & S. First Trick Telegrapher was on March 10, 1927, increased to sixty-five cents per hour on account of his

supervisory duties, and the rate of sixty cents per hour paid the Second and Third Trick positions remained unchanged.

In February of 1928, as the result of the negotiations between the management of the C. & S. and its employees, the rate of pay to Ticket Agent-Telegrapher, while under C. & S. management, was increased from sixty-five cents to sixty-seven cents per hour, and from sixty cents per hour to sixty-two cents per hour to Ticket Clerk-Telegraphers on the Second and Third Trick positions, and under date of July 30, 1930, as the result of negotiations between the management of the same Company and the General Chairman of the Order of Railroad Telegraphers, the Ticket Agent-Telegrapher was increased from sixty-seven cents to seventy cents per hour, and the Ticket Clerk-Telegraphers in the Second and Third Trick positions were increased to sixty-six cents per hour while under D. & R. G. W. management.

It is contended by employees' representatives that the increase in pay granted by the D. & R. G. W. management should also be the basic rate of pay of the C. & S., when the latter again resumed its alternated operation on March 10, 1933. However, the record in this case does not disclose that the C. & S. participated in any manner with the D. & R. G. W. in the negotiations which brought about an increase in pay during the period of operation by the latter Company. There is no evidence to support the contention that the C. & S. management even directly or indirectly approved the action of the D. & R. G. W. The contracts or Schedules between C. & S. management and their employees, and D. & R. G. W. management and their employees, are separate and distinct. The fact that the two Railroads jointly operated a passenger station under conditions recited in the contract of joint operation, in the absence of a specific provision to the contrary, does not justify one carrier in changing the rate of pay of its employees in such manner as to change the rate of pay by the other carrier, whether the change be an increase or decrease. Neither has this Board the right to change the rate of pay of an employee when the same is clearly fixed by contract between the carrier and the employees. Since the rate of pay was clearly fixed between the C. & S. management and its employees as to the positions involved herein, this Board is without jurisdiction for the purpose of altering or modifying the plain provisions of the contract or Schedule between the C. & S. management and its employees. Therefore,

#### AWARD

The claim is denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,  
*Secretary.*

Dated at Chicago, Illinois, this 13th day of August 1935.