

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
THE COLORADO AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM.—

"Claim of the General Committee of The Order of Railroad Telegraphers that the agency position at Loveland, Colo., rated at \$233 a month, consolidated on September 1, 1932, with the first-trick telegraph position which was rated at 61 cents an hour, and the rate for the consolidated position of agent-telegrapher arbitrarily established at 62 cents an hour, later changed to 65 cents an hour, was done without agreement with the Telegraphers' Committee, and that the previously fixed rate of \$233 a month shall be reinstated and continued in effect until such time as same is changed through negotiations."

STATEMENT OF FACTS.—Prior to September 1, 1932, there was in existence at Loveland, Colorado, a position classified as exclusive agent, rate \$233 per month, not covered by the Telegraphers' Agreement. There is listed in the current Telegraphers' Agreement three telegrapher positions at Loveland, Colorado, rate 59 cents per hour.

Effective September 1, 1932, the carrier discontinued the exclusive agency position and the first-trick telegrapher's position at Loveland, and established new position of agent-telegrapher, rate 62 cents per hour, later changed to 65 cents per hour under the Telegraphers' Agreement.

An agreement bearing date of June 16, 1924, as to rules, and February 1, 1928, as to rates of pay, is in effect between the parties.

Rule 14, paragraph (c), of the current Agreement, provides:

"When vacancies occur, or new positions are created, they will be formity with that of existing positions of similar work and responsibility in the same seniority district."

POSITION OF EMPLOYEES.—

"The carrier took the position that the exclusive agency at Loveland was abolished and a new position created. This position of the carrier is not well founded and is untenable for the reason such a contention cannot be supported. Agency service is still being supplied at Loveland, and based upon the revenue which accrues at this station, as heretofore shown, it is a large and important station. Furthermore, had a new position been created it would have been bulletined under the rules. We cite Rule 38 (d), which reads as follows:

"When vacancies occur, or new positions are created, they will be bulletined within five days to all offices on the Division, etc."

"Had this been a new position the carrier would have been obliged to bulletin the job. The agent-telegrapher job was not bulletined. Agent Craig continued to serve as agent, and, in addition to his agency duties, was instructed to assume the duties of the first-trick telegrapher. A new classification was established, and in creating this new status the carrier established a less favorable rate of pay and condition of employment.

"The committee contends that the carrier's action whereby an arbitrary rate was fixed without negotiations and agreement with the committee, was irregular, a violation of the Telegraphers' Agreement, and not in accordance with or pursuant to the Railway Labor Act."

POSITION OF CARRIER.—

"In the statement of claim contained in the Organization's notice to your Board, they advise that the Supervisory Agency at Loveland was consolidated on September 1, 1932, with the first-trick telegrapher's position. This statement is not correct. The supervisory agency at Loveland was discontinued August 31, 1932, and a position of agent-telegrapher was created September 1, 1932, the agent-telegrapher taking over the duties of first-trick telegrapher's position effective that date. There was no violation of any schedule, agreement, or understanding in connection with abolishing positions, creating new positions, or having agent-telegraphers handle first trick. In fact, there could be no violation in connection with abolishing position of supervisory agency at Loveland for the reason that this position is exempt from all schedule requirements.

"The claim further contends that the rate for the position of agent-telegrapher was 'arbitrarily' established. This statement is not correct. The schedule provides that where new positions are created, compensation will be fixed in conformity with that of existing positions, and the rate of pay was created in compliance with that rule of the schedule."

OPINION OF BOARD.—The parties are in agreement that the new position of agent-telegrapher came under the terms of the Telegraphers' Agreement. In accord with provisions of Rule 14 (c) of the Agreement, compensation for this position should be fixed in conformity with that of existing positions of similar work and responsibility in the same seniority district.

The evidence before the Division not being deemed sufficiently specific to enable the Division to decide as to the proper hourly rate to be applied, the Division feels that the case should be remanded to the parties for the purpose of jointly determining the facts, and thereafter agreeing upon the hourly rate of pay to be applied to this position in accord with provisions of Rule 14 (c) of the Agreement.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the case be remanded to the parties in order that they may jointly determine the facts and agree upon the hourly rate of pay to apply to the position of agent-telegrapher at Loveland.

AWARD

Case remanded for disposition in accordance with preceding opinion and finding.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 2nd day of July, 1937.