

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
BOSTON AND MAINE RAILROAD**

STATEMENT OF CLAIM.—

"Claim of the General Committee of the Order of Railroad Telegraphers on Boston & Maine Railroad that the employes operating the remote or centralized traffic control apparatus at Waltham Tower shall be classified as train directors in compliance with Rule 2 (1) of the schedule agreement effective March 18, 1927, and that positions be rated and paid accordingly."

EMPLOYES' STATEMENT OF FACTS.—In their ex parte submission the General Committee stated:

"Prior to May 11, 1930, in the main line territory between South Acton, Mass., and West Cambridge, Mass., a distance of 20.9 miles of double track, there were maintained three towers as follows:

"At West Cambridge, a manual operated tower.

"At Waltham, a manual operated tower.

"At West Concord, a manual operated tower.

"These towers were operated by employees classified as towermen. Trains were operated through this territory on eastward and westward tracks by direction, train orders and automatic block signals.

"On May 11, 1930, the manual operated tower at Waltham was discontinued and supplanted by a newly installed electro-pneumatic apparatus in a newly erected tower. (See Employees Exhibit A.) No change in rate was made.

"On November 19, 1932, a remote or centralized traffic control apparatus was installed in the new tower at Waltham in addition to the electro-pneumatic apparatus. (See Employee Exhibit B.) This remote or centralized traffic control apparatus handled all of the work of operating signals and switches at West Cambridge, and the manual operated tower at that point was, as a consequence, discontinued. Waltham tower thereafter operated the signals and switches at both points—Waltham and West Cambridge. The West Cambridge rate was then applied to the Waltham tower in accordance with a rule of understanding between the Committee and management.

"On December 20, 1934, the territory of the remote or centralized traffic control apparatus at Waltham was extended to operate all of the work handled by the tower at West Concord, and the West Concord tower was discontinued on that date. On the same date the territory of the Waltham tower was further extended to include the operation of the signals and switches on and off the Marlboro branch at South Acton. Coincidentally with these changes on December 20, 1934, the operation of trains by signal indication in either direction over the Central Massachusetts branch between West Cambridge and Hills Crossing, a distance of approximately 2 miles, was placed upon the employes operating the Waltham tower, which duty constitutes the classification of a train director."

CARRIER'S STATEMENT OF FACTS.—The carrier stated the facts as follows:

"Previous to May 11, 1930, at Elm Street, Waltham, Mass., a small tower was maintained. On May 11, 1930, a new tower on opposite side of Elm Street was opened with an electric pneumatic machine which controlled the

"There were no new positions created at Waltham, therefore there is no question of fixing the rate to conform to existing positions of similar work and responsibility, as required by the quoted section of second paragraph of Rule 2.

"Rule 12 (a) of current Agreement reads:

'Employees, as per Rule 1, will be advised within five days of all permanent vacancies or new positions covered by this Agreement by notice sent to each office, stating hours of service, days per week, and salary. Applications for such vacancies or positions shall be received for ten days and the successful applicant and the Local Chairman be advised and the assignment made within twenty days after vacancy occurs.'

"The positions were not advertised in accordance with Rule 12 which, in itself, is a recognition that they were not new positions but a combination of existing positions which does not require advertising.

"There is more work than there was before the changes in 1932 and 1934, but it is work of a similar nature to that previously performed and is not the work of a Train Director.

"The volume of work does not call for an adjustment in rate of pay. The Management has endeavored to adjust rates downward where the volume of work was very much less than when the rates were established but the representatives of the Organization would not agree to such downward adjustments.

"Summary.—1st. Reclassification of Train Directors not warranted by the work and responsibility of the position or by the Operating Rules (General and Special) which outline duties of Train Directors.

"2nd. Positions are already classified by agreement between the parties under one of the headings enumerated in Scope Rule No. 1 and facts do not support request for reclassification.

"3rd. These are not new positions under the Agreement, therefore rate does not have to be negotiated under Rule 2.

"4th. The authority of an Adjustment Board to fix rates of pay is challenged."

OPINION OF THE BOARD.—This claim of the General Committee of The Order of Railroad Telegraphers on the Boston and Maine Railroad is based on the classification of employees operating the remote or centralized traffic control apparatus in the Waltham, Mass. Tower, and in which the General Committee contends that the present employees classified as Towermen should be classified as Train Directors, and that the positions be rated and paid accordingly.

The employees quote Rule 2, paragraph 1, effective March 18, 1927, of the agreement between the Order of Railroad Telegraphers and the Boston and Maine Railroad in support of their contentions, together with a statement of the classification of steam railroad occupations issued by the Interstate Commerce Commission, describing and designating the duties of Train Directors and other rules and exhibits claim to have a bearing on the subject at issue.

In its presentation of conditions concerning this dispute, the Carrier states that "changes in classification of positions as here requested is beyond the authority of this Board unless the contract is being violated." In view of the fact, however, that this claim is based upon a dispute between the General Committee representing the employees and the Carrier as to the proper classification of employees under an existing rule of the agreement, and in accordance with the provisions of paragraph (1), Section 3, of the amended Railway Labor Act, approved June 21, 1934, the Board rules that this instant case is properly before this Third Division of the National Railroad Adjustment Board.

Considering the claim of the General Committee that the employees designated as Towermen in the Waltham, Mass., Tower, shall be classified as Train Directors, the employees base their contention first, upon the increase of work performed by Towermen as between 1932 and 1934.

Second, upon the fact that the employees in the Waltham Tower operate remote control apparatus controlling interlocking signals and switches at various points and in a specified territory; and

Third, state that in addition the employees of Waltham Tower direct the movement on trains in either direction by signal indication without train orders over a limited district within the territory indicated.

Insofar as the increase of work as between two periods is concerned, the Board submits that this constitutes no basis for action on the part of the Board

as so far as rates of pay for any increase of responsibility on the part of the employes is indicated or concerned, this is a matter of discussion and adjustment between the parties to the agreement, provided no change is indicated in the proper classification of the employes.

With respect to the operation of remote control apparatus controlling interlocking signals and switches, the fact that this constitutes the duties of Towermen is not disputed, and were the performance of this service and the increase of work the only contentions of the General Committee the Board submits there would be no basis for this claim.

The entire basis of the claim, however, rests upon the question as to whether or not the employes designated as Towermen in the Waltham Tower are responsible for directing the movement of trains over a limited portion of the territory covered by that Tower, and because of such responsibility are entitled to being classified as Train Directors and receiving the usual rates of pay of employes in that classification.

In the description of the duties of Train Directors by the Interstate Commerce Commission, as with the comparisons made with the service of employes in other Districts, nothing is indicated other than to confirm the fact that the duties of a Train Director is to direct the movement of trains by signals within a designated territory, and to perform related work.

Whether or not the work of the Towermen in the Waltham Tower is in part that of Train Director in accordance with the designation given by the Interstate Commerce Commission, and the claim of the General Committee, is not entirely clear. If it were then there is merit to the claim of the General Committee for a reclassification of the employes with an adjustment in the rate of pay. On the other hand, trains may move by signals on the lines indicated, similar to devices controlling interlocking signals and switches operated by Towermen and without being directed by other Train Directors in that portion of the territory covered. In other words, the fact is not clear as to whether Train Directors have not already directed the movement of trains from one point to another, subject only to the requirements of orders that have been issued as such movements pertain to the intervening tracks between West Cambridge and Hills Crossing, and on the Watertown Branch entering and leaving Waltham; and which may be operated by Towermen without requiring any additional Train Director service beyond that existing on either side of the territory indicated.

Under the circumstances, it is recommended by the Board, that this claim be remanded to the parties to adjust their differences in accordance with the above conclusions, or failing adjustment to resubmit the differences with a more adequate record of the service performed as it applies to the movement of trains over the territory in dispute.

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 employes involved in this dispute are respectively carrier and employes 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 evidence of record is not sufficient to determine the service performed as it applies to the movement of trains over the territory in dispute.

AWARD

Case remanded for adjustment in accordance with last paragraph of the Opinion of the Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 26th day of August, 1937.