

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MISSOURI-KANSAS-TEXAS LINES

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on Missouri-Kansas-Texas Lines, that the rate of pay for the agent at Nocona and the agent at Itasca be corrected to the higher rate of the position of telegrapher-cashier at their respective stations in accordance with Article V-(b) of telegraphers' agreement, as a result of the latter positions being consolidated with the agent positions October 1, 1930, and December 17, 1930, respectively, and be made effective as of February 1, 1936."

STATEMENT OF FACTS: The General Committee submitted the following statement of facts:

"An agreement bearing date August 1, 1928, as to rules and rates of pay is in effect between the parties to this dispute.

"The wage scale of the agreement lists the following positions at Nocona and at Itasca:

Nocona		Itasca	
Agent-telegrapher	57¢	Agent-telegrapher	57¢
Telegrapher-clerk	60¢	Telegrapher-cashier	66¢
Telegrapher-cashier	66¢		

"On October 1, 1930, the position of telegrapher-cashier at Nocona was consolidated with the position of agent at Nocona.

"On December 17, 1930, the position of telegrapher-cashier at Itasca was consolidated with the position of agent-telegrapher at Itasca.

"Each of the positions of telegrapher-cashier were abolished upon being consolidated with the agency position.

"The regularly assigned incumbents of the positions of telegrapher-cashier at each of these stations displaced employees on other positions elsewhere.

"Article V-(b) of telegraphers' agreement provides:

'When two positions are consolidated, the higher rate will apply.'

"The rate of pay of the consolidated positions of agent-telegrapher cashier at Nocona and at Itasca was not increased to the higher rate of pay of the telegrapher-cashier positions upon the consolidation of the positions."

The Carrier submitted the facts as follows:

OPINION OF BOARD: This claim is based on the abolishing by the Carrier of the position of telegrapher-cashier at Nocona, Texas, on October 1, 1930, and consolidating it with the position of agent, and abolishing the position of telegrapher-cashier at Itasca, Texas, on December 17, 1930, and consolidating it with the position of agent-telegrapher at Itasca.

In connection with the position at Nocona listed as "Agent-Telegrapher" in the agreement between the parties, effective August 1, 1928, the General Committee submits that this title was a typographical error, that it should have read "Agent." At the time the rate of pay for the Agent at Nocona was negotiated into the agreement, the agency position did not require the performance of telegraph duties as was necessary following the consolidation. However, as no objection to the correction has been made by the Carrier, the Board assumes that the parties are in agreement on that subject.

The General Committee of the Order of Railroad Telegraphers bases its contentions in this claim on Article 5-(b) of the agreement between the parties which reads, "When two positions are consolidated, the higher rate will apply."

The Carrier cites Rule 5-(a) and (b) and Article 6-(a) and (b) and submits that there was no change in classification of the employees affected by reason of taking the work previously performed by the cashier-telegraphers and that when the positions of cashier-telegrapher were discontinued, conditions reverted to the same as existed prior to the creation of cashier-telegrapher positions.

According to the facts presented in this dispute, each of the parties are in agreement that when the telegrapher-cashier positions were discontinued or abolished the duties formerly performed by the telegrapher-cashiers were taken over by the agent-telegraphers. The Carrier contends that under such circumstances there was no consolidation of positions as claimed by the General Committee, but simply two positions were abolished and the work thereafter performed by the agents, which was properly a part of their duties and responsibilities.

Considering this contention of the Carrier, the Board submits that, while no change in this classification of positions was made or acknowledged by the Carrier in so far as the titles of the positions are concerned, the fact that the duties of the former telegrapher-cashier were added to the existent duties of the agent or agent-telegraphers constitutes evidence in fact that a consolidation of the positions did take place.

Insofar as the rules cited are concerned, Article 5-(b) is specific in its requirements that when two positions are consolidated the higher rate will apply. Insofar as paragraph (a) of Article 5 is concerned, there is no application in this paragraph to the conditions of this instant claim and paragraph (b) of that rule is controlling. As for Article 6, paragraphs (a) and (b), these paragraphs, similar to paragraph (a) of Article 5, have no bearing on the subject at issue as the two positions at the stations indicated and classified in the Telegraphers' agreement were combined and consolidated in fact and, in accordance with Article 5, paragraph (b), the higher rate should have been applied.

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 in accord with the provisions of Article 5, paragraph (b), of the current agreement, the higher rate of the two positions should be applied and such rates made effective as of February 1, 1936, in accordance with the agreement of the representative of the employees under date of January 17, 1936.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 21st day of December, 1937.