

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
CLEVELAND, CINCINNATI, CHICAGO AND
ST. LOUIS RAILWAY**

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Peoria and Eastern (Cleveland, Cincinnati, Chicago and St. Louis Railway), that the telephone service now being performed in the yard office at Hilliary, Illinois, is work coming within the scope of the Telegraphers' Agreement and shall be assigned to employees covered by said agreement."

**EMPLOYES' PETITION FOR RE-PRESENTATION
OF CLAIM IN DOCKET TE-472, REMANDED BY
THE THIRD DIVISION IN AWARD 510 FOR FURTHER
ANALYSIS AND NEGOTIATION.**

"Now comes the petitioner, The Order of Railroad Telegraphers, and states that in conformity with the direction of the Third Division of the National Railroad Adjustment Board in Award No. 510, dated Chicago, Illinois, the 7th day of October, 1937, remanding the claim of the petitioner in Docket TE-472 for the reason that submissions in the case when heard by the Board were not sufficiently clear to permit the Board to determine a conclusion, and directing that further analysis be made by the parties at interest and negotiation be conducted with the view to reaching proper adjustment in conference with the privilege of re-presenting the claim should conference fail and conditions warrant such action, we, the petitioner, beg leave to submit that after full compliance with the Board's direction and recommendations, the conferences with the carrier have failed to bring about a proper adjustment of our claim, and, we, therefore, request that the original claim as set forth in our initial submission be reinstated in accordance with the privilege extended by the Board through Award No. 510 in event of failure of subsequent handling to dispose of the dispute.

"As directed in Award No. 510, and as promptly as could be made mutually convenient between the committee and the carrier, it was mutually agreed and arranged that a joint check be conducted at Hilliary Yard by a representative selected by the carrier and by a representative selected by the organization to investigate, over a period of twenty-four hours, the use of the telephone in communications service at Hilliary Yard by employees not under telegraphers' agreement. The representatives thus selected for this joint investigation were:

For the carrier: — R. L. Clegg
For the Organization: — Harvey Bever.

"The joint investigation was conducted as follows:

back to the Third Division. The Committee frankly seeks to have the Third Division establish a principle, which would serve as precedent.

"Another extreme contention, just made known in discussing the joint check, is that should the Third Division decide in favor of the employees, the Committee would not admit the propriety of reverting to the methods in effect prior to February 16, 1931, the date the three telegraphers at the west end were discontinued, with whom messages and reports had been handled as they were subsequently handled with the operators at Wyton. This means that after waiting five and one-half years to protest the methods followed subsequent to February 16, 1931, the Committee now contends the methods followed for approximately seven years prior to 1931 were improper, although no objection was made in that period. In short, the complaint would not be satisfied by a decision ordering restoration of the three telegrapher jobs at the west end of the yard, however unnecessary they might be. Asked how to operate in the event of such a decision, the Committee merely says that would be the problem of the management. This proves our original position that the Committee has desired not so much the restoration of operators at the west end of the yard as acquiring jurisdiction over the jobs of the Assistant Yardmasters, and substitution of employees holding telegrapher seniority for the present incumbents, solely because they use the telephone as various classes of employees do in general practice.

"We contend that the existing practices indicated in this submission are proper. To render a decision that they are not proper would have an effect far beyond this immediate case, because these are ordinary matters of common daily occurrence. If it should condemn these ordinary practices the Third Division would be setting up new restrictions as to the use of the telephone. It would be equivalent to writing a new rule seriously and adversely affecting clerical and other classes of employees who are not parties to this case.

"As a general practice, the use of the telephone by employees other than telegraphers is a matter of common knowledge. To restrict the use of the railroad telephone lines to telegraphers only would work hardship and injustice upon other classes of employees as well as the management, and open a very large jurisdictional question.

"The Carrier respectfully requests the Third Division to deny the claim of the employees."

OPINION OF BOARD: On February 16, 1931, when Hilliary telegraph office (west end of yard) was closed, the handling of messages and reports by telephone between that office and the Assistant Yardmaster's office (east end of yard) was discontinued and this identical work was thereafter handled by telephone between Wyton telegraph office (east of Hilliary yard) and the Assistant Yardmaster's office. This practice of handling messages and reports by telephone is no different from the recognized practice in effect on this and other railroads. The incumbents of the positions of Assistant Yardmaster were promoted from the ranks of Yard Clerks and retain their seniority standing in the clerical group. The carrier states that it must fill these jobs with men of proper experience and aptitude, and telegraphers have no preferential right to them.

The use of company telephone lines by or between Division Officers, Chief Clerk to General Manager, Chief Dispatcher, Train Dispatchers and Assistant Yardmasters, or other employees, in connection with matters under their jurisdiction, is also no different from the recognized practice in effect on this and other railroads.

The requirement that train and yard men obtain permission from operator at Wyton by telephone to use the Wyton-Hilliary siding and that they report by telephone to operator at Wyton when clear of siding was a re-

quirement prior to the abolishment of Hilliary telegraph office and not heretofore, nor now, recognized as exclusively telegraphers' work.

As shown by the record in this case, there is no rule in the Telegraphers' Agreement restricting the right of the Carrier to have employees other than those covered by that Agreement handle messages and reports over the telephone; nor any rule prohibiting telephone conversations by and between officers, dispatchers, assistant yardmasters, and/or other employees; nor prohibition of train and yard men obtaining permission from a telegrapher by telephone to use a designated track, or report when clear of same. See Awards 652 and 653.

For the reasons herein stated, the Board finds no violation of the Agreement between the parties.

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 facts of record show no violation of the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Ill., this 26th day of July, 1938.