

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on Kansas City Southern Railway, that the carrier violated Telegraphers' Agreement when, under the guise of abolishing the position of towerman at Worland, Missouri, transferred the duties of the position to the agency position at Tiger, Missouri, without conference and agreement with the Committee; and that the position of towerman at Worland shall be restored to Telegraphers' Agreement and filled in accordance with the governing rules of said agreement."

EMPLOYES' STATEMENT OF FACTS: "An agreement bearing date of September 1, 1927, as to rules and rates of pay is in effect between the parties to this dispute.

"The position of towerman at Worland, Missouri, is covered by said agreement and at a rate of 54 cents per hour.

"On December 1, 1931, the carrier created a position of agent-telegrapher at Tiger, Missouri, a distance of 0.8 of a mile from the Worland Tower at a rate of 60 cents per hour, which rate was unilaterally fixed by the carrier.

"Concurrently on the same date, December 1, 1931, the carrier without agreement with the Committee, under the guise of abolishing the position of towerman at Worland, transferred the duties of the position to the newly created position of agent-telegrapher at Tiger."

CARRIER'S STATEMENT OF FACTS: "The depot at Tiger, Missouri is located at Mile 75. The Missouri Pacific crossing is located at Mile 74.2. The crossing is approximately 4,240 feet north of the depot.

"The signals of the interlocker at the Missouri Pacific crossing are normally set to permit passage of Kansas City Southern trains. Twice daily (on week days only) the agent is required to operate the interlocker to permit Missouri Pacific trains to use the crossing.

"The name of Worland station was changed to Tiger July 1, 1931. Prior to that time there was no station named Tiger on the line of the Kansas City Southern.

"The scope rule of the Telegraphers' Agreement effective September 1, 1927 is as follows:

'Rule 1. This schedule will govern the employment and compensation of telegraphers, telephone operators (except switchboard operators), agent-telegraphers, agent-telephoners, towermen, levermen, tower and train directors, block operators, staffmen and such agents

name appears in the Telegraphers' Agreement only because of the fact that this agreement was made prior to the time the name of the station was changed from Worland to Tiger. The depot at Worland was constructed on the present site of Tiger depot in 1924. Prior to that time the only building at Worland was the tower. The fact that the depot and the tower were known as Worland Depot and Worland tower indicates clearly that both are considered as being located at the same station. As before stated, the structures are less than a mile apart. It must therefore be apparent that the carrier's action in requiring the agent to look after the tower is not in the nature of requiring an employe at one station to assume jurisdiction over work at another station.

"Stripped of all irrelevant features, the situation is simply this:

"Only two movements are made daily except Sunday over the Missouri Pacific Crossing at Tiger.

"Arrangements are in effect whereby the agent at Tiger receives advance information as to the time when these movements can be expected daily.

"The agent bid in the job in 1931, knowing that the station forces would be required to operate the tower.

"No rule of the Telegraphers' Agreement has been violated in assigning the work to the agent.

"No work coming within the scope of the Telegraphers' Agreement has been taken away from employes covered by the Telegraphers' Agreement."

OPINION OF BOARD: A branch line of the Missouri Pacific Lines crosses a main line track of the Kansas City Southern Railway Company at Worland, Missouri. In 1922, the Kansas City Southern Railway Company constructed an interlocker system and tower at the intersection and established the position of towerman to operate this equipment at this point. At the time no other station force was employed at Worland. The position of Towerman at Worland was incorporated in the Telegraphers' Agreement of November 16, 1923, and has continued in the agreement since that date.

As the result of the development of strip coal mining in the immediate vicinity of Worland in 1931, it became necessary for carrier to construct a depot and establish a station agency at this point. The depot was located eight-tenths of a mile from the intersection of the two lines of railroad. When the agency was established the name of the station was changed from Worland to Tiger.

The general notice establishing the agency created the position of agent and two telegrapher positions. It also provided the employes holding these positions would operate the interlocker system at Worland Crossing. At the same time, the position of Towerman was abolished. The claim is for the restoration of the position of towerman.

The record shows that the work in question, which is covered by the Telegraphers' Agreement, is being performed by employes included within the agreement and it is admitted that if these employes were located at the tower or the tower located at the depot, these employes could be required to perform this work. Petitioner contends, however, that Tiger and Worland are separate stations and for this reason, the work of the positions cannot be consolidated. Awards 388, 434, 496 and 556 are relied upon as sustaining this position.

These awards of this Division all dealt with efforts of carriers to place the work of two separate agencies under one agent in efforts to effect econo-

mies. The separate agencies were maintained but the time of one agent was divided between the two agencies. The Board held the practice to be a violation of the agreements.

The facts in this case differ so greatly from the facts in the cases covered by the Awards referred to that those Awards are not controlling here. This is not a case where a towerman has been called upon to operate two towers located at separate points and which are, in fact, separate positions under the agreement. When the position of towerman was created at Worland, no other station force was employed at that point and when the time came when other employes qualified under the agreement to perform the work in question, were needed, the situation was no different to what it would have been had an agent who was not a telegrapher been located at this point and it became necessary to establish an agent-telegrapher position. As pointed out above, it is agreed that under the agreement agents and telegraphers are qualified to perform work of the character involved in this case.

The contention that the depot and the tower constitute separate stations is not sustained by the record. They are both located within the same station limits. No contention is made that the work of an agent or telegrapher must be confined to the depot or other building where located. The fact that such is not the case is a matter of general knowledge.

The duties of towerman were always extremely light at Worland. Generally throughout the period the position was in existence, the Missouri Pacific operated one train daily in each direction. The tracks of the Kansas City Southern are kept open except when this train of the Missouri Pacific is passing over the intersection. The work of the position consisted in letting these trains through. Carrier had the right under the agreement to consolidate this work with other work covered by the agreement and assign the work to employes qualified under the agreement to perform same and such other work. The claim will be denied.

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 abolition of the position of towerman at Worland, (Tiger) Missouri, and turning the work of the position over to other qualified employes under the agreement did not violate the agreement between the parties.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 27th day of July, 1939.