

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE CHICAGO, ROCK ISLAND AND PACIFIC

THE CHICAGO, ROCK ISLAND AND GULF RYS.

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island and Pacific that, the basic rate of pay for the second and third trick telegrapher positions in the Oklahoma City East yard telegraph office shall be adjusted upward by three cents per hour effective as of January 1, 1937, by reason of a substantial increase in the duties and responsibilities of the positions caused by the telegraph office in the office of the Assistant General Freight Agent at Oklahoma City, Oklahoma, being discontinued on that date and a substantial portion of the telegraph work of this office being transferred to the second and third trick telegraph positions in the East yard office."

EMPLOYES' STATEMENT OF FACTS: "The Order of Railroad Telegraphers and the Chicago, Rock Island and Pacific Railway Company have an agreement dated January 1, 1928, covering wages and working conditions of the employes designated in the scope rule thereof, copies of which have been furnished to the Board. On page 43 of the agreement will be found in the wage scale two positions listed at Oklahoma City yard. After the effective date of the agreement, because of operating changes, the two positions at the passenger station were abolished and one new position created in the Assistant General Freight Agent's office and carried by agreement the same rate of pay as the first shift position at the passenger station, 72¢ per hour."

"Effective January 1, 1937, the telegraph position in the Assistant General Freight Agent's office was abolished and the telegraph work and responsibilities transferred to the yard telegraph office and spread over the three shifts, the majority of this imposed on the first shift. An agreement was reached and the rate of pay of the first shift was increased to 72¢ per hour but the management declined to adjust the rates on second and third shifts."

CARRIER'S STATEMENT OF FACTS: "On January 1, 1937, the telegrapher in office of Assistant General Freight Agent, Oklahoma City, Oklahoma, rate 72¢ per hour, was discontinued. The telegraphing formerly handled by the telegrapher in the Freight Traffic office was transferred to the yard office in which three telegraphers were employed at rate of 68¢ per hour. In addition to his telegraph duties in the Freight Traffic Office when he was employed there, the telegrapher performed clerical and rate work to fill out his eight hours per day."

"At the time this change was made, investigation developed that the vast majority of telegraph work formerly performed by the telegrapher in the Freight Traffic Office was being performed by the first trick telegrapher"

the yard office from 68¢ per hour to 72¢ per hour. This first trick telegrapher was assigned 8:00 A. M. to 4:00 P. M. The telegrapher in the Assistant General Freight Agent's office, before his position was discontinued, had assignment from 8:00 A. M. to 5:00 P. M. Therefore, as the bulk of the telegraphing formerly performed by the telegrapher in the Freight Traffic office was handled during the assignment of the first trick yard telegrapher, it naturally followed that the first trick yard telegrapher would be the one whose duties were increased and this, therefore, was the reason we increased his rate of pay from 68¢ to 72¢ per hour, although, really, there was no justification for increasing this telegrapher's rate to 72¢ per hour as the rate of 72¢ per hour which the Freight Traffic Department telegrapher had received was established on the basis that he was in a traffic office where the incumbent, in addition to telegraphing, had to perform work of a traffic character, particularly the handling of rates, also such traffic positions are entitled to a little higher rate than line telegraphers because they are so-called 'general office' positions as compared with a station or yard office position.

"The organization did ask for similar rate to be established for the second and third trick in the yard office at Oklahoma City, but as the actual telegraphing is the least important of the work that was performed by the traffic department telegrapher and only straight telegraphing work was taken over by the yard telegraphers, there is no justification for an increase in the rates of pay on that basis, but the management felt it was consistent to establish the 72¢ rate for the day job in the yard office in keeping with a long-established practice of retaining the higher rate for the agents and/or telegraphers at stations where two or more positions were worked during the same hours. For instance, if we had an agent at a lesser rate of pay than a telegrapher working also on the day shift and the telegrapher position was abolished, the higher hourly rate of the telegrapher would, though not required by contract, automatically be transferred to the agent-telegrapher position which would be continued, and that is really what was done in this case. There were two telegraphers at this point—one in the Traffic Department office and one in the yard office, and the 68¢ rate was abolished and the 72¢ rate transferred to the first trick in the yard office.

"As the first trick telegrapher in the yard office assumed the majority of the telegraphing formerly done in the traffic office, there was very little telegraphing formerly handled in the traffic office that had to be absorbed by the second and third trick telegraphers whose tour of duty was outside of the assignment of the former traffic department telegrapher and, therefore, no increase was granted to these second and third trick yard telegraphers and none is now warranted.

"The second trick telegrapher in the Oklahoma City yard office does handle a few messages between the hours of 4:30 P. M. and 5:30 P. M. that were formerly handled by the telegrapher in the traffic office. This, however, is only straight telegraphing work. The third trick, 12 Midnight to 8:00 A. M., copies passing report from Chicago office and receives one or two messages daily between Midnight and 8:00 A. M. for the freight and passenger traffic departments, not to exceed 20 minutes per day being devoted to traffic department telegraph work.

"Attention is called to the fact due to general falling off in business there is less work to be handled in the Oklahoma City telegraph office and less train orders to handle account of less trains run, and even the transfer of telegrapher's work from the traffic office does not offset this loss of work that has occurred in the yard office at Oklahoma City.

"Claim should be denied as without merit."

OPINION OF BOARD: Prior to January 1, 1937, there existed at Oklahoma City, Oklahoma a telegrapher position, rate 72¢ per hour, in the office of Assistant General Freight Agent and three telegraph positions in the yard office at rate of 68¢ per hour.

Effective January 1, 1937, the telegraph position in the Assistant General Freight Agent's office was abolished and the telegraph work and responsibilities transferred to the yard telegraph office. The first trick in the yard office had the same hours as the position in the general freight office, except that it quit one-half hour earlier. The great bulk of the work formerly going through the general agent's office was handled by the first trick. The second trick handled a small amount and the third trick a still smaller amount. When this change was made, by agreement between the organization and the management, the rate of pay of the first shift was increased to 72¢ per hour, the same as that formerly paid on the position in the general freight office. The organization, however, insist that the rate of the two remaining tricks should also be adjusted upward by three cents per hour. This the carrier declined to do. The only rule cited as authorizing this Board to act in the matter is Article 2-(a) of the existing agreement, which reads:

"When new positions are created, compensation will be fixed in conformity with that of existing positions of similar work and responsibility in the same seniority district."

By no stretch of the imagination can it be contended that any new positions were created here. The second and third tricks were undoubtedly required to handle some more messages than previously and the third trick copied the passing report, but this was straight telegraph work. Although it may have increased the volume of their work slightly beyond what it was December 31, 1936, it must be remembered that there has been a large decline in volume of work on substantially all positions since the date the rates were fixed and there is nothing here to indicate but what the work is still less in volume than at the time the rates were fixed. It is conceivable that such radical changes might be made in a position as to constitute a new position under this Article, but what occurred here could not be so classified. See Awards 536 and 482 of this Division.

In many schedules there is a rule to the effect that where an increase in responsibilities or duties occurs, or a decrease therein, the rates will be adjusted to conform to other similar positions. There is no such rule, however, in this schedule. The Carrier followed the usual practice, that is, when one of two or more positions is to be abolished the higher rates will be retained. Thus the first trick was given the same rate as the abolished position carried.

Article 3-(a) cited on argument, has no application.

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 no rule is shown in support of the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois this 4th day of August, 1939.