

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Fred W. Messmore, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

LEHIGH VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Lehigh Valley Railroad Company that:

1. The Carrier improperly abolished two telegraph schedule positions without abolishing the duties covered by the Telegraphers' Agreement, assigned hours 6:30 a.m. to 2:30 p.m., and 2:30 p.m. to 10:30 p.m., occupied, respectively, by John Catanzaro and W. J. Keegan, at Buffalo Junction (formerly known as Erie Junction), New York, effective July 30, 1945;

2. The Carrier in consequence of such improper abolishment shall be required to re-establish said positions, return the former incumbents thereto, and pay for any wage loss plus any expenses incurred; also, any other employees who were adversely affected by the operation of seniority rules shall be returned to former positions with pay for any wage loss plus any expenses incurred.

EMPLOYES' STATEMENTS OF FACT: An agreement by and between the parties, bearing effective date of July 1, 1940 as to rules and December 27, 1943 as to rates of pay, is in evidence; copies thereof are on file with the National Railroad Adjustment Board.

The Telegraphers' Agreement of October 1, 1919 listed at Erie Junction (now Buffalo Junction) two positions classified as "Operator-switchtenders". These positions were abolished following the return of railroads to private owners during 1920, because the Erie Railroad no longer used Lehigh Valley facilities. Effective August 5, 1935 the Erie Railroad resumed use of Lehigh Valley facilities and the two operator-switchtender positions were re-established and continued until July 30, 1945. The duties of the operator-switchtender positions, listed by the Carrier, were to block trains by telephone, handle train orders, and throw two hand-thrown ground switches on each occasion a train left the Lehigh rails for Erie rails, or vice versa—an average of 11 or 12 operations in each 16-hour period.

Some time prior to January 31, 1945 (exact date unknown), the Brotherhood of Railroad Trainmen made claim against the Lehigh Valley Railroad Company for jurisdiction over the throwing of ground switches at Buffalo Junction. The dispute was filed with Division One, National Railroad Adjustment Board. Subsequently, and before Division One acted on the dispute, by agreement or unilaterally, the dispute was withdrawn from Division One for further consideration on the property. The parties to that dispute, namely, the Brotherhood of Railroad Trainmen and the Lehigh

to or from Buffalo Station (Lehigh Valley Railroad) enter and leave the main tracks of the Lehigh Valley Railroad over which they operate. The carrier now maintains at this junction three telegraphers' positions, part of whose duties as now assigned consists of throwing the main track junction switch and the two main track crossover switches used in the above operation by Erie trains. These three switches are individual ground level switches, and the request of the Brotherhood of Railroad Trainmen is that the throwing of these switches by telegraph operators be discontinued and same be assigned to employees coming within the scope of their agreement, namely, switchtenders. This request is based on the application of the rules of their agreement cited and in evidence.

"The Board has considered the facts, evidence and arguments of the parties, and is of the opinion that the handling of these switches in the manner which obtains at present is a violation of the rights of the trainmen covered by the agreement in evidence, and decides that the carrier shall discontinue the present practice of telegraphers throwing these switches in the manner set out above within a period of thirty days from the date of this decision. No monetary claims are involved.

"AWARD:

"Claim to be disposed of in accordance with the findings."

After the decision in the Trainmen's case, negotiations were held with the Committee representing Telegraphers in connection with the change necessary to comply with the Trainmen's Award, and although the Trainmen extended the time limit provided in the award for making their decision effective, no other settlement could be effected with the Telegraphers than to transfer all work under the scope of their agreement to other positions under their agreement, which was done, and the positions as telegrapher-switchtender were abolished July 30, 1945, and positions as switchtenders established, whose only duty was the throwing of individual ground lever connected switches out on the track.

The question in this case is jurisdictional as between the Telegraphers and the Trainmen, involving the right of Telegraphers to throw switches on the track, which are not connected in any way for handling from a tower, building, etc. It is the contention of Trainmen that the handling of such switches is work which must be performed by Trainmen, and in view of the award given them in their case and the entire abolishment of all other telegrapher duties at this point, there is no justification in the claim of the Telegraphers for the positions in question to be restored, as the only remaining work at the location is the handling of outside switches connected on the tracks.

Therefore, there is no violation of the Telegraphers' Agreement in having switchtenders handle the switches at Buffalo Junction, and we ask that the request of the Telegraphers in this case be denied.

OPINION OF BOARD: The effective Agreement between the parties, dated July 1, 1940 as to rules and December 27, 1943 as to rates of pay, is in evidence. The Telegraphers' Agreement of October 1, 1919, listed, at what is now called Buffalo Junction, two positions of Operator-Switch Tenders—their duties to block trains, throw switches, receive and deliver train orders and other messages to trains. Without repeating the history of these positions since they were created, suffice it to say, they were abolished by the Carrier July 30, 1945.

On January 31, 1945, a Reviewing Board found that the handling of the three ground level switches; that is, the practice of Telegraphers throwing these switches be discontinued within thirty days, holding that this phase of the work belonged to trainmen.

On May 10, 1945, the Carrier filed application with the Interstate Commerce Commission to expedite the movement of trains, requesting modification of the automatic block signal system at Buffalo Junction, for a change in the wire and signal facilities. This was following the decision of the Reviewing Board in 1945. The request was granted.

On July 30, 1945, the Carrier put into effect the following arrangement:

"A direct wire has been placed in service between Erie Tower "FW" and "LV" Tower at Chicago Street. Operators at these respective towers will report and clear trains as between Erie and "LV" Dispatchers, and the Erie men will report to our Chicago Street Tower when the Erie trains are due, and our men at Chicago Street will report to the Erie men likewise.

"Our Chicago Street Operator will notify the Switch-tenders when to line the switches and that will be the only function the Switch-tenders will have; that is, to accept instructions from the Operators to line the switches, but nothing else. If it becomes necessary to issue instructions, clearance cards, or otherwise, this will be taken care of direct between the Operator and Conductor."

The Employees describe the operation and the communication necessary to permit the movements between the two carriers at this location as follows:

"The actual operation, for instance, an Erie train entering Buffalo via Buffalo Junction and through the Chicago Street plant, must first have permission by signals and other functions to leave Erie rails at Buffalo Junction and cross over to the Lehigh Valley westbound main line track. This permission is gained in the following manner: The Operator at Erie Tower telephones the Operator at Chicago Street Tower who, in turn, when the westbound track is available, telephones the switchtenders at Buffalo Junction who, in turn, lines the crossover switches accordingly. The Carrier * * * has arranged that when the Chicago Street Operator rings the switchtenders at Buffalo Junction, the ring is one long and two short rings, which constitutes a signal which permits a crossover. The switchtender is supposed to accept that signal, without answering the telephone, as evidence the crossover movement is permitted. The switchtenders actually use the telephone. If at any time the signals become defective or fail in operation from any cause, the train crew must be supplied with a clearance card (Form C) before a crossover can be effected. Such permission is granted by telephoning a clearance card from Chicago Street Tower to Buffalo Junction."

There is in evidence a clearance card, upon which the station, date and item six (For Interlocking Signal) signal governing movement is filled out. There is also in evidence three train orders. The Employees say these matters are of record.

The foregoing constitutes the relevant and material facts. The Employees contend that under the facts of record the Carrier has violated the Scope, Rule 2 and Rule 74 of the Agreement. These rules appear in the Employees' Submission; that by the arrangement as made, there is communication work remaining which belongs to the Telegraphers; that the duties of a Block-Operator are to clear the Block before the train is permitted to proceed and then by certain indications, permit the train to proceed; that in this case it was necessary to go to the telephone and answer it to receive instructions from the Signalman.

We believe that under the facts as disclosed by the record, the Carrier has not violated the applicable agreement. We are cognizant of the language relied upon by the employees, quoted in Awards 1281 and 1283. We believe, however, that Awards 1305, 1320, 1553 and 1671 which overruled Award 1283 and that part of Award 1281 upon which the employees rely, and rein-

stated Award 1145 which was overruled by Award 1283, govern in the case before us, and are controlling. We conclude that the Carrier has not violated the Agreement.

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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 10th day of March, 1947.