

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**THIRD DIVISION**

**Edward F. Carter, Referee**

**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**  
**THE PENNSYLVANIA RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on The Pennsylvania Railroad, that an increase in the rate of pay of Block Operators and Levermen at "AR" Block Station, Gallitzin, Pa., shall be made under the provisions of Article IX, Section 1(b), of Part II of the Telegraphers' Agreement, account of a substantial change in the duties and responsibilities of these positions, effective May 24, 1946, by the added requirement to operate tunnel fans on tracks 3 and 4.

**EMPLOYES' STATEMENT OF FACT:** Prior to 7:00 A. M., Friday, May 24, 1946, four ventilating fans, one in either end of tunnels Nos. 3 and 4 tracks, Gallitzin, were operated by M. of E. Department employes located in boiler room at that location. Beginning 7:00 A. M., Friday, May 24th, as result of newly installed electrically operated equipment, the operation of these fans were given to Levermen and Block Operators at "AR" Block and Interlocking Station.

These fans are operated only for movement of freight trains through the tunnels or for M. of E. Department employes to work in the tunnels.

Operation of these fans entails pushing three (3) buttons to start each fan and pushing three (3) buttons to stop each fan, two (2) fans being operated for particular tunnel to be used. The number of freight trains using these tunnels for the seven days beginning May 26th, was, 39, 38, 42, 37, 44, 39 and 37, total 276, for an average of 39 for a twenty-four (24) period.

Prior to May 24, 1946, the Block Operators or Levermen advised the M. of E. Department employes by pushing a button which caused a bell to ring or horn to blow, of approach of freight trains, which is now eliminated.

Prior to May 24, 1946, the fans in tunnels on tracks 3 and 4, were operated by steam pressure generated in boiler room at point of tunnels.

These tunnels are located near Gallitzin, Pa., on the Pittsburgh Division, four track system. Tracks split approximately 2 miles west from Gallitzin, Westbound tracks on the low level approximately one-half mile from the Eastbound tracks. Eastbound tracks on the high level pass through one single tunnel. Westbound tracks pass through two separate tunnels. "AR" Block Station is located at the crest of the hill on the Westbound tracks several hundred feet west of the single tunnel and approximately  $\frac{3}{4}$  mile from the tunnels on tracks No. 3 and 4.

**POSITION OF EMPLOYES:** An Agreement bearing date of May 16, 1943, as to working conditions and rates of pay is in effect between the

an agreement in this respect is a failure to reach an agreement to change existing rates of pay and is, consequently, referable to the National Mediation Board, under Section 5, First, subsection (i), of the amended Railway Labor Act.

**III. Under the Railway Labor Act, the National Railroad Adjustment Board, Third Division, is Required to Give to the Said Agreement and to Decide the Present Dispute in Accordance Therewith.**

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to the said Agreement, which constitutes the applicable Agreement between the parties and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties hereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

**CONCLUSION.**

The Carrier has shown that no substantial changes occurred in the duties or responsibilities of the positions of Block Operator and Levermen at "AR" Block Station, Gallitzin, Pa., incident to the change in the operation of the ventilating fans in the Gallitzin tunnels, within the meaning of Article IX, Section 1 (b) of the applicable Agreement, and that consequently, the Carrier is not required to negotiate with the representatives of the Claimants the matter of an increase in the rates of pay of the positions in question.

Even if the facts in this case justified a finding that the duties or responsibilities of the positions in question had been substantially changed, nevertheless the only remaining obligation of the Carrier would be to enter into negotiations with the Employees for the purpose of attempting to agree upon an appropriate rate of pay for those positions, and your Honorable Board would have no power to fix the rate of pay as the Employees request the Board to do in this case.

Therefore, the Carrier respectfully submits that your Honorable Board should dismiss the claim of the Employees in this matter.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The Carrier maintains two tunnels near Gallitzin, Pennsylvania. Four ventilating fans, one at each end of the two tunnels, were installed and operated for movement of freight trains through the tunnels and while Maintenance of Way employees were working in the tunnels. Prior to May 24, 1946, it was the duty of the Block Operator at "AR" Block and Interlocking Station to notify Maintenance of Equipment Department employees of approaching freight trains by pushing a button that sounded an alarm indicating which tunnel was to be used. There was no further act on his part to be performed on this operation, the remaining responsibilities resting entirely with M & E Department employees who were charged with the duty of operating the fans. Levermen had no connection with the operation during this period.

On or about May 24, 1946, the steam operated fans were replaced with new electrically operated fans. It was necessary for the proper operation of these fans that each fan be started and stopped by pressing three buttons at proper intervals. There was an average of 40 trains through the tunnels

each 24-hour period. This work was assigned to levermen and block operators who contend that it has resulted in a substantial change in duties and responsibilities warranting a different rate of pay. The applicable rule provides:

"(a) When a vacancy occurs in an established position, or when there is a change in the classification or work of such position, a different rate of pay or condition of employment may not be established for the position unless or until the duties or responsibilities of the position shall have been substantially changed.

"(b) When the duties or responsibilities of an established position are substantially changed, the rate of pay and/or condition of employment may be changed for such position on the basis of like positions on the same Region as agreed to, in writing, between the duly accredited representative and the proper officer of the Company." Article IX, Section 1, current Agreement.

The only question here for determination is whether there has been a substantial change of duties and responsibilities of the positions involved requiring negotiations between the Carrier and the Organization regarding the proper compensation to be assigned to the positions.

As to block operators and levermen, the work of operating the fans was new and additional. It is work not usually attached to their positions. It entailed new and added responsibilities with reference to the proper handling of these fans. It required many additional operational movements which had to be made at timely intervals and in proper sequence. Failure to so do could result in serious consequences. We think the added work brought about a substantial change in the duties and responsibilities of these employees within the meaning of Rule IX.

**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

The Agreement was violated.

#### AWARD

Duties and responsibilities on positions specified have been substantially changed warranting application of Rule IX (b).

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 21st day of July, 1948.