

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, 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:

(a) That the duties and responsibilities of the three towermen-telegrapher positions at Bellewood Tower, Pattensburg, N. J. were materially increased when, effective October 4, 1947, the operation of signals and switches at Landsdown, N. J. was added to the duties of the towermen-telegraphers at Bellewood Tower by the installation of an electrically operated remote control machine; and,

(b) That as a result of this material increase in the duties and responsibilities of these three positions the rates of pay of these positions shall be increased five and one-quarter ($5\frac{1}{4}$) cents per hour effective October 4, 1947, in accordance with the provisions of Rule 5-(c) of the Telegraphers' Agreement.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing date July 1, 1940 as to rates of pay and rules of working conditions was in effect between the parties to this dispute. The three positions of towermen-telegraphers at the Bellewood tower were covered by said agreement.

Prior to October 14, 1947, the towermen-telegraphers at the Bellewood tower operated signals and switches located only at Bellewood tower.

Effective October 14, 1947, the operation of signals and switches located at Landsdown tower was discontinued and all of this work formerly performed by three towermen-telegraphers at the Landsdown tower was transferred to and added to the duties of the three towermen-telegraphers at the Bellewood tower by means of a newly installed remote control machine. This change increased the duties and responsibilities of the three towermen-telegraphers approximately 100 per cent.

As a result of this material increase in the duties and responsibilities of the three towermen-telegraphers at the Bellewood tower, the General Committee requested an increase of five and one-quarter ($5\frac{1}{4}$) cents per hour in the rates of pay of these towermen-telegraphers at Bellewood in accordance with provisions of Rule 5-(c) of the telegraphers' agreement and effective as of the date of the change. The Carrier declined the request.

POSITION OF EMPLOYES: The following quoted rules of the telegraphers' agreement are invoked in this case of dispute:

"Scope. Rule 1. This agreement will govern the employment and compensation of Agents, Assistant Agents, Ticket Agents,

The employees at Bellewood interlocking station have always handled orders from the train dispatchers regarding pushers at both Bellewood and Landsdown, so that there have been practically no additional duties or responsibilities placed upon them in remotely controlling the switches and signals at Landsdown. Rule 5 (c) of the agreement in effect, under which the request in this claim is presented, refers to the duties of any position which are materially increased. That rule is entirely silent with respect to responsibilities, which, it is noted, the Employees, in presenting this request, include in their claim. The wording of that rule is not ambiguous, and it clearly interprets the intent of the parties who agreed to include it in the agreement. The rule reads "materially increased." It cannot be considered the duties at Bellewood were materially increased, from the record herein stated, of thirty levers removed from the interlocking plant between 1944 and 1947, and, additionally, one crossover switch and one signal switch, and the total elimination of the handling of Western Union business, compared with additional installations of only one crossover within the interlocking limits and the two crossovers and one switch at Landsdown, which, in the case of the latter, consisted only of four switch levers and six signal levers.

Furthermore, Rule 5 (c) of the agreement, under which this claim has been presented, provides "When the duties of any position are materially increased, their rate of pay shall be adjusted in conformity with positions of the same class." The Employees claim that because of a material increase in the duties and responsibilities of the three positions at Bellewood, the rates of pay shall be increased $5\frac{1}{4}$ cents per hour. If this request were granted, the hourly wage rate would be scaled upwards and become equal to the highest wage rate of any position under the scope of the Telegraphers' Agreement in the seniority district involved for any of the positions working at interlocking stations and block stations. The interlocking station at Bellewood in no way conforms to the duties of employees at the block stations in which the increased rate requested would place it. To the contrary, the present rate of \$1.30 $\frac{1}{2}$ per hour conforms to most favorably and equal with or in excess of the hourly wage rate at other interlocking stations or block stations of the same class.

When the parties negotiated the rule under which this claim is presented, they certainly meant a material increase in the duties of a position and, without any question, in consideration of such a factor, reduced duties through the years, for which there was no proposed reduction in the hourly wage rate by the Carrier, would have to be taken into consideration. All that was done at Bellewood was merely to restore some of the work which had previously been removed. Such work was restored in the nature of levers to be handled. The facts the switches or signals controlled by such levers were located at Landsdown would have no bearing on the physical effort required to perform the work by the positions at Bellewood.

The Organization, in presenting this claim to this Division, is endeavoring to obtain an award which, if granted, would virtually amount to the writing of a new rule. Such a means to an end is not a proper function of this Division to perform. There is no ambiguity in Rule 5 (c) of the agreement under which this claim is presented. Therefore, no interpretation is or should be required. There was no material increase in the duties of the positions at Bellewood. Therefore, there are no grounds which would justify granting the request herein contained.

The Carrier, for the reasons stated herein, respectfully submits that inasmuch as there was no violation of the rule of the agreement in effect with respect to this claim, that same should be denied.

OPINION OF BOARD: The change in the Carrier's facilities effective October 4, 1947, consisting of the installation of remote control mechanism for certain signals and switches at Landsdown is the basis of this claim. The change required ten additional levers in the machine at Bellewood interlocking plant, and the concurrent abandonment of the manual block station at Three Bridges.

The question presented is to what effect this change had upon the duties of the three towermen-telegrapher positions at Bellewood. The abandonment of the block station at Three Bridges lengthened the block east of Bellewood.

In resisting the claim the Carrier contends that no new duties were added so far as control of the block east of that station is concerned; that the additional mileage did not increase duties of claimants by making Port Reading the eastern end of the block instead of Three Bridges; and, also, that no change was made in the block west of Bellewood extending to Phillipsburg.

The Petitioners claim the duties were materially increased in these positions as a result of the change and base the claim on Rules 1 and 5-(c) of the Agreement. Rule 1 is the Scope Rule, and Rule 5-(c) provides:

“(c) When the duties of any position are materially increased, their rate of pay shall be adjusted in conformity with positions of the same class.”

and it is contended the duties were increased by approximately 100 per cent. They contend, further, that the change also added materially to responsibilities of the claimants and that the amount of movements were practically doubled. Tabulation is set out in the record of the number of trains handled, by lever movements, Bellewood, and by remote control, Landsdown, listing the trains handled and lever movements covering a period of three days. It is contended that this tabulation shows an increase in duties at Landsdown of 88 per cent in handling trains and 66 per cent over their normal duties at the Bellewood tower. The combined record showing a total daily average of 110 trains and 693 lever movements are now being handled at Bellewood with a basic rate of pay for the positions of \$1.30½ per hour, and this in comparison with the three positions of towermen-telegraphers at Port Reading Jct., where the basic rate of pay is \$1.35-3/4 per hour, where the daily average is 99 trains and 792 lever movements.

Award 3994 is cited in support of the claim.

The Carrier disputes the tabulation as shown by Petitioners and gives additional data on train movements, and contends there is duplication in the tabulation as all switches can be lined up as of one operation to include both those within the limits of Bellewood interlocking and those by remote control. They contend that only a negligible amount of duty could have been added, for these employes had previously handled such movements through orders from train dispatchers both as regarding the infrequent movements to the branches and the helpers at Bellewood and Landsdown, other than the work in connection with the turning and movement of westbound helpers which previously had been handled at Three Bridges; that on main line operations they continued to handle the block east of the Bellewood plant just as they had before the change of October 4, 1947, although the east limit was changed from Three Bridges to Port Reading; and, also, that the same situation prevailed as before on the block west of Bellewood to Phillipsburg.

Cited were Awards 1516, 2576 and 2606 on the question of “burden of proof”, contending that Petitioner has not met the same to an extent sufficient to establish the claim.

The question presented here is close; however, a new and different system was established which undoubtedly did increase the duties of claimants, and certainly the responsibilities were increased.

It is the considered opinion that the added duties and responsibilities made for a substantial change which entitles the claimants to the relief requested.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 29th day of November, 1948.