

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION
Mortimer Stone, 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 salary of the freight agent position at Union City, Indiana, shall be negotiated under the provisions of Article IV, Section 1(a), of Part I of the Telegraphers' Agreement for the period March 1, 1946, through July 14, 1947, account a substantial change in the duties and responsibilities of the position during that period.

EMPLOYEES' STATEMENT OF FACT: Effective March 1, 1946, the handling of carload or less, lcl, freight, originating at Columbus, Ohio, was established to break bulk at Union City, for further handling by truck line and cars, the transfer of this freight being handled from car to platform, from car to car, and from car to truck by station force at Union City, Ind. Freight for points west of Union City is occasionally left in the car and forwarded.

The following is a statement showing the business handled at this station from January, 1941 to July 14, 1947, inclusive:

Year	Waybills	Frt Bills	Total	LCL Tons	CARLOADS Out	In	Total	Revenues	TFR WB's Han- dled
1941	10752	4535	15287	2257	204	320	524	\$127,410	—
1942	8892	4321	13213	1987	199	352	551	122,716	—
1943	14313	4479	18792	2259	149	225	374	109,122	—
1944	12485	5184	17669	2754	164	718	882	161,618	126
1945	14326	5052	19378	3394	160	463	613	154,333	86
1946	13674	5827	19501	5408	307	322	629	188,135	5682
*1947	4496	3323	10262	2160	218	221	439	132,587	3033

(*) 7 month to July 14, 1947.

The Local Chairman made a claim for an increase of \$50.00 per month in salary for the Agent at Union City, because of increased supervisory duties and work. This claim was denied.

POSITION OF EMPLOYEES: There is an Agreement in effect between the parties, Regulations and Rates of Pay effective May 16, 1943, with necessary adjustments to be added.

This Agreement is divided in two Parts. Part I of which governs Agents and Assistant Agents, and covers in this instant case.

duties or responsibilities of the position. No such change has occurred in the hours, days, duties or responsibilities of the Freight Agent at Union City, Indiana, which would justify an increase in the rate of pay of that position. It has been shown that there was no change in the operation of the station at Union City, Indiana, which would result in a genuine change in the hours, days, duties or responsibilities of the Agent at that station.

Therefore, Article IV, Section 1 (a) does not in itself provide support for the claim in this case.

The Carrier submits, therefore, that the request of the Employees for adjustment in the salary of the Freight Agent at Union City, Indiana, is not justified and requests your Honorable Board to deny their claim.

III. Under the Railway Labor Act, the National Railroad Adjustment Board, Third Division, is required to Give Effect 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 said Agreement 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 Agreements 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 thereto 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 such action.

CONCLUSION

The Carrier has shown that the hours, days, duties, or responsibilities of the Freight Agent at Union City, Indiana, were not changed substantially, and there is no basis to justify an increase in the salary of the Agent at that station, for the period March 1, 1946 through July 14, 1947.

Therefore, the claim is not supported by the applicable Agreement and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The pertinent contract provision here involved is Article IV, Section 1 (a) of Part I, which reads as follows:

"The monthly rates of pay specified in the Rate Schedule applicable to Part I of this Agreement, attached to and made part of this Agreement, are intended to compensate employees for all the services which they perform incident to their regular assignments. Whenever, subsequent to May 16, 1943, there is a substantial change in the number of hours constituting the monthly tour of duty of a position, or a substantial change in the duties or responsibilities of a position, adjustment in the monthly rate of pay for such position shall be a subject for negotiation between the proper officer of the Company and the duly accredited representative of employees."

Beginning on March 1, 1946, the Columbus car of L.L.C. freight was handled by breaking bulk at Union City, Indiana, for further distribution from that point by truckline or car, the transfer being made from car to platform, from car to car, and from car to truck by the station force. Until the fall of 1945 the freight agent at Union City was given two freight handlers and one clerk. In the early part of 1946 there were three freight handlers and no clerk, and in April the force was reduced to two freight handlers.

In November 1945, after removal of his clerk, the agent wrote his superior saying that he had tried for two months and a half and that without clerical help but could not keep the work up working an average of 12 hours a day. He further said: "I think I have given it a fair trial and would like to have some relief or a study made of the job to determine just what can be done towards lightening the work". No answer to this request is shown. Again, in March 1946 the agent asked that necessary steps be taken to have corrected rate applied to the station inasmuch as it had been made a transfer point, and he was curtly advised several weeks later that his claim was being declined. Then in May 1946 he asked for compensation for 49 hours overtime in the first half of May, and was directed to confine his activities to his eight-hour schedule except in extreme emergencies. Thereupon the Committee made request that an increase of salary of that position be negotiated and it was denied.

Under the effective Agreement the monthly rate was the sole compensation to the freight agent for all services performed, and he was not entitled to overtime. Accordingly when the duties of the position were increased or decreased the only method of equitable adjustment of pay was by negotiation, which was sought and denied.

Carrier admits that more than twice the number of cars and tonnage of L.C.L. freight was handled in April 1946 as in April 1945 and that the transfer work increased during the period involved more than 100%, but denied negotiation of wage increase because, it says, the overall volume of the work was small, and the agent was instructed not to work more than eight hours per day.

When a freight agent is burdened with the responsibility of seeing to it that the work of his station is performed, regardless of the amount of freight which may come or of the uncertain hour of its arrival, an instruction that he shall confine his activities to his eight-hour schedule carries an implication very different from the meaning of the words employed. There was no denial of the statement that the agent's duties had increased and required overtime work. The rule does not require an extraordinary increase nor a great increase but only a substantial change in hours or duties and responsibilities, to justify negotiation.

The record contains no study of the position, as had been sought by the agent, and but little exploration of its duties and responsibilities, which would be necessary to determine the proper adjustment of pay, but it does sufficiently appear that the required work and responsibility of handling the extra car of L.C.L. freight per day without the clerical help formerly assigned to the agent resulted necessarily in a substantial increase in the duties and responsibilities of the position, and required negotiation.

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 negotiation was required.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois this 19th day of January, 1950.