

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Francis J. Robertson, Referee

**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**THE NEW YORK CENTRAL RAILROAD COMPANY**  
**(Buffalo and East)**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central Railroad, Buffalo and East, that

(a) The Carrier violated the terms of the Telegraphers' Agreement when and because on July 16, 1948, it unilaterally discontinued the position of telegrapher-clerk at Green Island, New York, as the work of the position was not abolished in fact but remained to be performed.

(b) The Carrier violated the terms of the Telegraphers' Agreement by permitting or requiring employes working on another railroad in another city, as well as other persons not under the Buffalo and East Telegraphers' Agreement, to perform the telegrapher-clerk work on this position commencing July 16, 1948.

(c) The position shall be restored to the Telegraphers' Agreement and George K. Clements, who was the regularly assigned incumbent, and who was improperly removed from the position at the time it was arbitrarily discontinued on July 16, 1948, shall be restored to this position, and be paid for all loss of wages, plus travel and waiting time and other necessary expenses that were incurred, and

(d) All other employes who may have been adversely affected as a result of this improper action on the part of the Carrier shall be restored to former positions and paid any loss of wages they may have sustained, plus travel and waiting time, and any other expenses incurred because of the discontinuance of this position.

**EMPLOYEES' STATEMENT OF FACTS:** An agreement bearing effective date of July 1, 1948, by and between the parties, is in evidence, copies thereof are on file with the National Railroad Adjustment Board.

The position of telegraph-clerk at Green Island, New York, is included in said agreement and Mr. George K. Clements was filling the position when it was declared abolished by the Carrier on July 16, 1948.

Many of the duties, formerly performed by the former incumbent George K. Clements, are being performed by employes on another railroad in another city, as well as other persons not under the Buffalo and East Telegraphers' Agreement, including all work in connection with the blocking of trains, handling train orders, telegraph-clerk duties, as well as telephone operator and communications service of record.

**T & S Branch:**

Troy, Westward T & S trains.  
 Green Island, Westward T & S trains,  
 Schenectady, Eastward T & S trains.

\* \* \* \* \*

Effective with the discontinuance of telegrapher-clerk position at Green Island, the block was extended from Green Island to Troy. It is the prerogative of Management to reduce or extend blocks to meet operating conditions. In this instance, the elimination of Green Island as a block station and the blocking of train 802 at Signal Station 3, Troy, cannot be construed as a transfer of work from The New York Central Telegraphers' Agreement to The Troy Union Telegraphers' Agreement as this is work that may be properly assigned to Signal Station 3, Troy, which is a terminus of The New York Central Railroad's Troy and Schenectady Branch.

It is also the prerogative of Carrier to have track car operators operating on the Troy and Schenectady Branch obtain permission from Signal Station 3, Troy, to occupy the main track as may be necessary.

During the period of time the telegrapher-clerk was not on duty prior to discontinuing the position on July 16, 1948, and there were no other open stations on the Troy and Schenectady Branch, the blocking of trains was handled between Signal Station 8 at Schenectady and Signal Station 3 at Troy. This substantiates Carrier's statement that the blocking of trains on the Troy and Schenectady Branch was work that could be performed by telephoner-leverman at Signal Station 3 at Troy notwithstanding the fact that these positions are subject to The Troy Union Telegraphers' Agreement.

**CONCLUSION**

The evidence presented by the Carrier conclusively shows that discontinuance of the position of telegrapher-clerk at Green Island was not in violation of the terms of the Telegraphers' Agreement and the claim should be denied.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Green Island, New York is a suburb of the City of Troy. Prior to July 16, 1948, Carrier maintained a position of telegrapher-clerk at that station, working hours from 7:00 a.m. to 4:00 p.m. Effective July 16, 1948 Carrier discontinued that position. The circumstances under which the position was discontinued were as follows: On July 1, 1948 handling of less than carload freight was transferred to Troy from Green Island, resulting in a diminution of the work formerly performed by the telegrapher-clerk at Green Island. Green Island was a block station and the block was extended to Signal Station 3 at Troy, New York and the work of issuing track car orders and the blocking of trains was turned over to that station while the clerical work of the position was turned over to the main station at Troy. Signal Station 3 is a point on the Troy Union Railroad manned by employees of the Troy Union Railroad.

Employees contend that Carrier has breached the Scope Rule of the Agreement in assigning work of the former telegrapher-clerk position at Green Island to employees outside the Agreement while the work of the position still remains, and file claim as indicated. Carrier contends that it is a matter of managerial discretion as to what station or train orders' offices Carrier shall maintain and to prescribe operating rules, that the work of handling New York Central trains into and out of Troy has for many years been handled by Troy Union employees from 4:00 p.m. to 7:00 a.m., and there is no reason that they cannot handle such work from 7:00 a.m. to 4:00 p.m. Carrier also points to the fact that Troy Union is a jointly owned and operated connecting Railroad, owned 50% by Carrier and the remaining 50% by the Boston and Maine and Delaware and Hudson.

Although there is conflict between the parties with respect to the amount of work which was performed by the telegrapher-clerk at Green Island prior

to the discontinuance of the position and with respect to the amount of train order and block work which was formerly performed at Green Island, the fact remains that there is no doubt that train orders and blocking of trains formerly performed at Green Island is now being performed by Troy Union employes at Signal Station 3. That this latter is work coming within the Scope of the Telegraphers' Agreement is fundamental. Clearly, then, Carrier could not with impunity assign the same to another craft. This Board has also frequently held, in the absence of Agreement, Carrier is not permitted to assign the work of an abolished position in one seniority district to employes in another district even though covered by the same Agreement. The factor of the amount of work involved is not controlling (Award 1611), hence the conflict between employes and Carrier with respect thereto is unimportant.

If it is a violation of the Agreement to assign work of an abolished position in one seniority district to one in another seniority district, clearly then it is a violation to assign such work to employes of another Carrier and under a separate Agreement, despite the more or less subsidiary relationship existing here. We are not called upon in this case to determine whether or not the performance of telegraphic work by employes of Troy Union involving the movement of New York Central trains outside the assigned hours of the abolished position is a violation of the instant Agreement. The fact is that by inclusion of the telegrapher-clerk position at Green Island in the wage scale, the Carrier has seen fit to negotiate the telegraphic work thereof into the Scope of this Agreement. It follows, therefore, that a sustaining award is in order. However, this Board has held, and rightly so, that it will not direct the establishment of positions. How the Carrier cures a violation of an Agreement is a matter for its discretion. Accordingly, parts (a) and (b) of the claim will be sustained with respect to the telegraphic work involved and parts (c) and (d) will be sustained except insofar as they request restoration of and to positions.

**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 Carrier violated the Agreement.

#### AWARD

Claim sustained to extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois this 27th day of January, 1950.