

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Francis J. Robertson, Referee

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**CHICAGO, ROCK ISLAND AND PACIFIC  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island & Pacific Railroad Company:

(1) That the Carrier violated and continues to violate the scope rule of the telegraphers' agreement when commencing November 24, 1947, it permitted or required employes not covered by said agreement at B Avenue, Cedar Rapids, Iowa, to perform communications service and block operation of trains by the use of the telephone, which is work covered by the telegraphers' agreement.

(2) That the Carrier shall be required to create and maintain appropriate positions of block operators at B Avenue under the telegraphers' agreement and assign the work of such positions to employes under the telegraphers' agreement.

(3) That such said positions of block operator shall be advertised and assigned under the governing rules of the telegraphers' agreement, and that any and all employes adversely affected by the violative act of the Carrier in assigning the work and duties of block operators to employes not covered by said agreement shall be reimbursed for all their money losses retroactive to November 24, 1947.

**EMPLOYES' STATEMENT OF FACTS:** An agreement bearing date August 1, 1947, as to rates of pay and rules of working conditions is in effect between the parties to this dispute.

Positions of Block Operators and the work performed by such positions are incorporated in and embraced by the scope rule of said agreement.

Effective 7:00 A.M., November 24, 1947, the Carrier established block operation for the movement of all trains between the Switch Shanty at B Avenue and 9th Avenue tower, Cedar Rapids, Iowa, and unilaterally assigned the work of blocking of trains though this territory at the B Avenue Switch Shanty to newly created positions of switchtenders, not under the telegraphers' agreement, at that point for round the clock performance with the towermen at the 9th Avenue tower, by means of the telephone.

The towermen at the 9th Avenue tower are covered by the telegraphers' agreement. Prior to November 24, 1947, the towermen were not required to block trains.

case at Cedar Rapids. All the moves made in the instant case are within yard limits and governed by yard rules. Train and engine crews not being involved, of course Mediation Agreement A-560 has no relation to this dispute.

At no time have employes under the scope rule of the telegraphers' agreement been employed at B Avenue. No telegraphers were displaced when the switchtender positions were established.

We respectfully petition the Board to deny this claim because these switchtenders—

do not block trains,  
do not make written records or reports of any kind, and  
they do not issue train orders, clearances, or written documents of any type under which trains may move.

A great majority of work performed by these employes is that of throwing the seven switches in the vicinity of "B" Avenue and giving hand signals, which work is admitted by the petitioner to be work properly assigned to employes under the Scope Rule of the switchmen's agreement.

Mediation Agreement A-560 referred to by the employes has no relation to the instant case.

The whole contention of the petitioner is that in the very limited amount of time devoted to the use of the telephone, which we have shown to be about one hour and twelve minutes in a twenty-four hour period, or twenty-four minutes per eight hour shift, these switchtenders thereby become block operators. We deny that they are block operators and we most emphatically contend that the use of the telephone by these employes for this limited time does not warrant reclassification of the positions of switchtenders to block operators.

(Exhibits not reproduced).

**OPINION OF BOARD:** Effective Monday, November 24, 1947, in the City of Cedar Rapids, the respondent Carrier and the Chicago, Milwaukee, St. Paul and Pacific Railroad established three positions of switchtenders operating from a shanty located on B Avenue near 4th Street; two by the respondent Carrier and one by the C.M.St.P.&P. These positions were established on an around-the-clock basis. The switchmen assigned to said positions were required to handle switches for movement of trains and engines into and out of the yards of the respondent Carrier and the yards of the Chicago, Milwaukee, St. Paul and Pacific Railroad which yards were a very short distance west of the intersection of B Avenue and 4th Street. These switchtender positions were established for the purpose of expediting the movement of trains along 4th Street because the City of Cedar Rapids had complained about the blocking of street crossings by trains moving along the tracks of both Carriers which were at street level along 4th Street. In the discharge of the duties of their positions, the switchtenders held a number of telephone conversations on each trick with the Tower operator located at 9th Avenue and 4th Street, approximately 3700 feet East of the switch shanty in which their telephone was located. The Employes contend that the work performed by the switchtenders in the handling of the movement of trains and engines between the B Avenue shanty and the 9th Avenue Tower constitutes the blocking of trains by telephone and hence work which is in the Scope of their Agreement. In effect, the Employes' contention is that the switchtenders and operators at the 9th Street Tower are engaged in block operation. Carrier contends that the work performed by the switchtenders is no more than was previously done by yardmasters, yardmen and trainmen over a number of nine years prior to the creation of these switchtender's positions. That all the moves made are within yard limits and governed by yard rules, no formal train orders being required.

We have read and re-read the record in this case with meticulous care in the hope of reconciling the conflicting statements of the Carrier and the Employes with respect to the type of work being performed by the switch-

tenders and the telegrapher at the 9th Street Tower. We regret that we are unable to completely resolve the facts material to a proper disposition of this claim. The record reveals that the Organization asserts that it had made a request upon the Carrier for the conduct of a joint check upon the actual duties of these employes and that Carrier refused to accede to the same. The Carrier denies that such a request was made. In any event, we believe that this Board should have the benefit of a joint check before adjudicating this claim. Accordingly, the case will be remanded to the property for further negotiation, with leave to the parties to return the same to this Board in the event of failure to agree. Should the parties fail to agree, upon return to this Board a report of the joint check should be submitted along with such discussion of the same as the parties may consider relevant.

**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 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 claim should be remanded to the property as indicated in the Opinion.

#### AWARD

Claim remanded.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 26th day of March, 1950.