

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

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.

(1) That the Carrier violated Articles 4 (a), 4 (d), 4 (f), 4 (k), 11, and 23 of the then prevailing agreement and Notice and Order No. 1 and Notice of Instructions of Federal Manager C. M. Buford of Government Controlled Railroads of May 17, 1946, when on May 24, and 25, 1946, the Carrier declared abolished the positions of many of the employes under the telegraphers' agreement because of the strike of engineers and trainmen on these days, and has refused to pay all of these employes their wages for either or both of these days on which they were improperly suspended from work during their regular hours; and

(2) That each employe thus improperly deprived of his or her usual employment by the Carrier on either or both of the aforesaid days — May 24 and 25, 1946 — by being improperly suspended during his or her regular hours and who was ready for service and not used, shall be reimbursed for the wage loss suffered on either or both of these two days as a result of this improper act of the Carrier.

EMPLOYES' STATEMENT OF FACTS: An agreement by and between the parties hereto bearing the effective date of January 1, 1928, as to rates of pay and working conditions, was in effect.

Due to a threatened strike of the engineers and trainmen on The Chicago, Rock Island and Pacific Railway, the United States took possession and control of The Chicago, Rock Island and Pacific Railway, effective 4:00 o'clock P.M., May 17, 1946, by means of the following quoted Notice and Order No. 1:

"NOTICE AND ORDER NO. 1

"To each carrier by railroad named in the Executive Order of the President of the United States, dated May 17, 1946, concerning possession, control, and operation of certain railroads:

1. By order of the director of the Office of Defense Transportation, dated May 17, 1946, the authority vested in said director by Executive Order of the President of the United States, dated May 17, 1946, whereby possession and control of your transportation system, plants, and facilities are taken and assumed by the United States as of 4:00 o'clock P.M., May 17, 1946, has been duly delegated by said director to

12. The Executive Order and Federal Manager's Notice and Order No. 1 are not here determinative.

OPINION OF BOARD: On May 23, 1946, locomotive engineers and trainmen went on a nation-wide strike, thereby suspending practically all train operations. The Carrier immediately notified the occupants of many telegraphers' positions that their position was abolished, the station closed or positions abolished. The strike was settled on the afternoon of May 25, 1946 and the Carrier thereupon notified these employees that service was resumed and to resume their regular positions at once. It is the contention of the Organization that this constituted a violation of the Telegraphers' Agreement in that employees were improperly suspended from working their regular hours on the days specified in the claim.

A Carrier may properly abolish a position when no work of that position remains to be performed. Awards 4453, 4389, 4001. The question is whether the Carrier actually abolished the positions. It is evident that Carrier did not consider the positions abolished. The fact that these employees were ordered to resume their regular positions when the strike ended, without re-bulletining, is strong evidence that the Carrier did not consider the positions abolished. It indicates an intent to hold these employees out of service while there was little or no work to be performed contrary to Article 4(d), Agreement effective January 1, 1928, providing:

"Employees will not be required to suspend work during regular hours or to absorb overtime."

The record shows that instead of abolishing the positions, the Carrier was attempting to avoid payment of compensation in a manner not permitted by Article 4(d). Awards 4453, 4389, 3838, 3630, 4676.

The Carrier contends that these employees were returned to service without re-bulletining the positions at the demand of the Organization. We think not. The General Chairman had on May 24, 1946, telegraphed Carrier's Manager of Personnel: "We consider violation Agreement temporarily lay off telegraphers instructing straight time be claimed." On May 25, 1946, the General Chairman sent a second telegram reading as follows: "Advise me Deshler Wallie Hotel if you are complying with Pelly instruction. Return all men to jobs. No displacements should be permitted." The latter telegram is consistent with the General Chairman's theory that these employees had been temporarily suspended contrary to the Agreement. Under his theory, they should have been returned to service without displacement. The telegrams contain nothing indicating an intent to waive the proper application of the rules by Agreement. We cannot say that these employees were assigned to their former positions without their being bulletined by agreement with the General Chairman.

The Carrier offered to pay the claims as to employees making claim in accordance with Article 6(h) providing:

"Other grievances will be taken up with the proper officials within thirty days; otherwise, redress in such cases will be waived."

The claim was filed on June 8, 1946 and in part contained the following language:

"Please, therefore, consider this as blanket claims, in behalf of all employees we represent, for all loss of time, at the rate of their respective positions, sustained by them as a result of your 'lock-out' order, which followed the work stoppage call of the BofLE and BRT May 23rd, 1946. Specific and individual claims will be submitted to you at a later date."

There has been considerable confusion in the awards of this Division as to the validity of general claims of this nature. Specific and general claims were not filed in the present case, the Organization contending that the information was in the hands of the Carrier and that it had no access to it.

We think the correct procedure is to permit the filing of general claims where the question at issue operates uniformly upon a class of employees that is readily determinable. There is no reason why the work of this Board should not be so expedited. Technical procedures are not contemplated. The policing of an Agreement ought not to be made unnecessarily difficult by requiring the filing of a multitude of claims when the disposition of a single issue decides them all. The Organization is authorized to represent the employees and where no prejudice arises out of group handling, we think it is entirely proper. Awards 4482, 3687, 2809, 2240.

Ordinarily, such handling is limited to that type of claim where a decision as to one employee decides as to all in the class. If there be a fact issue as to each employee as regards the liability of the Carrier, each must set forth his own claim. If the claim be so broad and indefinite that the claimants cannot be readily ascertained or the relief asked for does not operate uniformly upon the members of the class, blanket handling is improper. In the present case, the Carrier improperly suspended telegraphers during their assigned hours during the engineers and trainmen strike. All that were suspended from work during the period are entitled to be paid their straight time rate. The decision operates upon all alike. The names of those improperly suspended can be obtained without difficulty by an examination of Carrier's records. A Carrier will not ordinarily be required to search its records to develop claims against itself. But when a claim has been established and the dates of the violations are determined, the Carrier can be required to supply the names or permit a representative of the Organization to search them out. An affirmative award is in order.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearings 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 therein; and

That the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 31st day of March, 1950.