

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Northern Pacific Railway that:

(1) The Carrier violated and continues to violate the terms of the Agreement between the parties when effective January 15, 1950, it proceeded to consolidate, but did not abolish in face, the positions covered by the Telegraphers' Agreement at Tieton, Gleed and Naches, Washington, and transferred the duties and responsibilities of these three positions to the Supervisory Agent at Yakima and to other employees occupying positions not covered by the Telegraphers' Agreement.

(2) The Carrier shall now be required to discontinue this improper practice and restore the work as well as the agent-telegrapher positions at Tieton, Gleed and Naches to the Telegraphers' Agreement; and

(3) Restore the incumbent agent-telegraphers who held such positions prior to January 15, 1950, to their positions at Tieton, Gleed and Naches from which improperly displaced and compensate each in full for any monetary loss resulting from the Carrier's action in removing claimants from their assignments.

(4) All other employees who may have been adversely affected as a result of this improper action on the part of the Carrier shall be compensated for any loss of wages they may have sustained.

EMPLOYEES' STATEMENT OF FACTS: An agreement between the parties, effective April 1, 1948 (as amended) and hereinafter referred to as the Telegraphers' Agreement, is, by this reference, placed in evidence in this dispute.

Under Rule 90 (page 67) of this Agreement the following listing occurs under "Tacoma Division (East)".

Name of Station	Position	Hourly Rate	
Tieton	Agent-Telegrapher	1.24	(1.558 Effective September 1, 1949)
Gleed	Agent-Telegrapher	1.25	(1.57 Effective September 1, 1949)
Naches	Agent-Telegrapher	1.25	(1.57 Effective September 1, 1949)

"Obtain reports on how main line passenger trains are running and furnish this information to patrons who ask for it."

Main line passenger trains operate through Yakima and patrons desiring to board these trains do so at Yakima. Hence, any information concerning reports on such trains is secured from Yakima.

The foregoing analysis of the duties which the Employees allege were performed by the Agent-Telegraphers at Gleeed, Naches and Tieton prior to January 15, 1950 shows that the normal duties of the Agent-Telegraphers disappeared concurrent with the abolishment of these positions on January 15, 1950. This analysis also shows that any clerical work remaining following the abolishment of these positions is work that by custom and practice is performed by various classes of employees and that the performance of such work by the station force of Yakima or by conductors is not in derogation of the rules of the Telegraphers' Agreement.

As General Chairman Warren in his letter of February 28, 1950 to Chief of Personnel H. W. McCauley (Carrier's Exhibit "B") said:

"* * * The Carrier has the right to abolish positions in our agreement if the duties of such positions have in fact vanished * * *."

The duties of the positions of Agent-Telegraphers at Gleeed, Naches and Tieton were discontinued effective January 15, 1950 and the Employees have by their own admission put their stamp of approval on the abolishment of these positions.

The Employees have presented a claim in behalf of Agent-Telegraphers Pangle, Ingram and Ward for any monetary loss resulting from the abolishment of their positions on January 15, 1950. Following the abolishment of the positions of Agent-Telegraphers at Gleeed, Naches and Tieton, these three employees exercised seniority in accordance with the rules of the current Telegraphers' Agreement. Therefore, these employees have not incurred any loss in compensation.

The Employees have also presented a claim in behalf of all other employees who may have been adversely affected as a result of the abolishment of the positions of Agent-Telegraphers at Gleeed, Naches and Tieton on January 15, 1950. All employees holding seniority under the Telegraphers' Agreement are regularly employed. Moreover, the claim presented in behalf of all other employees adversely affected is indefinite and impossible of ascertainment as to the employees whom it is alleged have been adversely affected. Therefore this phase of the Employees' claim cannot be considered.

The Carrier has shown that on January 9, 1950 the Washington Public Service Commission issued its Findings of Fact and Order authorizing the discontinuance of agency service at Gleeed, Naches and Tieton; that pursuant to this Order the positions of Agent-Telegraphers maintained at these stations were abolished effective January 15, 1950 and concurrent therewith all work formerly performed by the occupants of these positions was discontinued at these three stations. This claim should therefore be declined.

All data in support of the Carrier's position in connection with this claim has been presented to the duly authorized representatives of the Employees, and is made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Effective January 15, 1950, Carrier discontinued agency service at Tieton, Gleeed, and Naches, Washington. Each of the three points was a one-man station, the work of each being performed by an agent-telegrapher. Concurrent with the closing of the stations, the positions of the agent-telegraphers were abolished. Each was required to

exercise displacement rights under the Telegraphers' Agreement. It is the contention of the Telegraphers' Organization that the positions of the agent-telegraphers at these three points were improperly abolished, that the remaining work of the positions was improperly assigned to employees outside the scope of the Telegraphers' Agreement and that the positions should be restored and the claimants compensated for wage losses suffered.

It is shown by the record that application was made to the Washington Public Service Commission for permission to discontinue agency service at these three stations. A public hearing was held by the commission at which it was disclosed that the gross income from each of the three named stations approximated a half million dollars. It was shown by the Carrier that all required service could and would be performed at these points to meet the needs of the public by direct handling from its offices at Yakima. The commission issued an order permitting the closing of the stations.

The order of the commission permitting the closing of the stations has no effect upon the Agreement between the Carrier and the Telegraphers' Organization. Commission control is based on the theory of eliminating destructive competition by permitting a railroad company to exist as a monopoly within the area served by its rails and at the same time subject it to regulation which will insure adequate service at a reasonable rate. The holding of the commission is nothing more than a finding that the communities involved will be adequately served after the discontinuance of the stations. If the Carrier fails in its obligations to these communities, the commission can issue a corrective order. But these matters are solely for the commission to determine within the scope of its powers. The exercise of such powers in no way interferes with the obligations of the parties to a collective agreement on the railroad except as they may do so incidentally. It may cause different provisions of the collective agreement to become operative at a given point by issuing such an order as in the present case but it does not have the effect of changing the agreement.

The scope rule designates the employees that are within the Telegraphers' Agreement. Their duties are not set forth. Agent-Telegraphers are among those designated as being within the Agreement. The work to be performed by an agent-telegrapher is that which such an employee customarily and traditionally performs. There was no telegraph work to be performed at these three stations. The work consisted of handling outbound carload shipments, the preparation of bills of lading, the calculation of rates, checking the yard, the making of reports, handling LCL freight, handling express, and representing the Carrier generally with the public. The record shows that Gleed is on a branch line 6.8 miles from Yakima and Naches is 6.7 miles beyond Gleed at the end of the branch. Between Yakima and Gleed there is a second branch diverging to the westward which terminates at Tieton, 15.8 miles from Yakima. These three points are in the fruit country and practically all the business consists of outgoing carloads of perishable fruits. Much of this business has always been handled at Yakima. With the discontinuance of the agencies at Tieton, Gleed and Naches, the Carrier handles all of such business at Yakima. Local LCL freight had been handled by motor carrier before and after the discontinuance of the agencies. Freight charges on LCL shipments are required to be prepaid unless credit is arranged with the Carrier. Freight train conductors are checking the yards and car distribution is handled at Yakima. The Express Agency is making its own arrangement for handling express, all of which is delivered by motor carrier as it was prior to the closing of the stations.

Whether or not a station shall be closed is a prerogative of management, subject to the interests of the public which it is the duty of the public service commission to protect. While the large income derived at these points makes it appear that a necessity for an open station exists, management has determined otherwise. The amount of revenue produced at a station is not a controlling factor in determining the need for an open station. No employees are being used at these points. With the closing of the stations the clerical work formerly performed by the agent-telegrapher is being performed by

clerks at Yakima. This, we think, is in accord with the Agreement and the generally accepted practice.

An agent-telegrapher is entitled to perform all telegrapher's work, all supervisory work and any other station work including that ordinarily performed by clerks, in order to fill out his job. When such a position is abolished and the remaining work is transferred to an adjacent or nearby station, the work belongs to the class of employees who customarily and traditionally perform it. It seems clear to us that upon the discontinuance of the one-man stations at Tieton, Gled and Naches, the remaining clerical work could properly be transferred to Yakima and be performed at that point by clerks. It is not work to which telegraphers have the exclusive right, although it was theirs under the circumstances existing at these points before the stations were closed and the agent-telegrapher positions were abolished.

It is the duty of management to operate its railroad with efficiency and economy. In so doing it may abolish positions not needed and assign the remaining work thereof to others of the same craft or to employees of another craft who are entitled to perform it. The Carrier is, of course, limited by any agreement it has made in conflict with the method employed. We have found no rules which have been violated by the Carrier in closing these one-man stations and assigning the remaining work of the agent-telegraphers to those entitled to perform it. Awards 4939, 4992, 5283, 5318, 5719.

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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 26th day of May, 1952.