

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Donald F. McMahon, Referee

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RY.**  
**(The New York Central R. R. Co., Lessee)**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Cleveland, Cincinnati, Chicago and St. Louis Railway (the New York Central Railroad Company, Lessee) that:

(a) The Carrier violated the terms of the agreement between the parties when without agreement it declared abolished, (1) three operator-levermen positions at Karl Tower, Mattoon, Illinois; (2) two operator-levermen positions at Gays, Illinois; (3) three operator-levermen positions at Windsor, Illinois; (4) agent-operator-leverman and two operator-levermen positions at Middlesworth, Illinois; (5) three operator-levermen positions at Moulton Tower, Shelbyville, Illinois, and (6) agent-operator-leverman and two operator-levermen positions at Tower Hill, Illinois, without in fact abolishing the work thereof.

(b) The Carrier further violated the agreement between the parties when without agreement it removed from the agreement and from the employees covered thereby, the duties or work of the positions named in paragraph (a), and transferred such duties or work to employees not subject to said agreement.

(c) The Carrier shall be required by appropriate award and order to restore to said agreement and to the employees thereunder, the duties or work of the aforesaid positions to be performed only by the employees coming within the scope of said Agreement.

(d) All employees adversely affected by the Carrier's violative action shall be compensated for all monetary losses sustained, including actual necessary expenses as required by Article 10 (a).

**EMPLOYEES' STATEMENT OF FACTS:** For the past several years train movements on single track between Mattoon and Pana, Illinois, on the Illinois Division, a distance of approximately 39 miles, have been effected by means of a signal indication system which governs such train movements and eliminates the necessity for train orders.

Until modifications were made by the Carrier in the control apparatus by which this signal indication system is operated, during the period between

The carrier's submission shows that there is no place where a telegrapher could be fitted into the present operation of trains at the local points between Mattoon and Pana where telegraphers once were needed. If all were in fact restored, there is no equipment they could operate to control switches and signals governing train movement.

Neither are there any other duties requiring the assignment of telegraphers as demanded. There has been no allegation that other work telegraphers should do is not properly handled, or in violation of the agreement.

There has been no naming on the property of any individual claimants, or the places, dates, or specific work that would give rise to claims in their favor.

In effect the contention is that telegraphers each within his own limited sphere formerly performed similar work; therefore, what the train dispatcher does now should be the work of telegraphers. Such contentions are so lacking in foundation that they cannot be seriously entertained.

The truth is that what the Committee wanted—and what it requested on the property in the beginning—was to have the operation of the Mattoon control board assigned to a telegrapher instead of to the train dispatcher. The present assignment of this work to train dispatchers is satisfactory, efficient and in keeping with all existing rules. The operation by the dispatcher is purely incidental to his primary duties, and is in line with similar operation on other railroads.

Apart from a telegrapher being unnecessary, the train dispatchers hold a contract on this property (through the American Train Dispatchers Association) as set forth in the submission. That organization claims the work now being performed by the train dispatcher and has served notice accordingly upon the Carrier, all as detailed in the carrier's submission.

No telegraphers were thrown out of work. It would not alter the right of the Carrier to modernize its plant and its operating practices if telegraphers had been thrown out of employment, that being frequently the temporary price of progress, as long as it violated no rule or agreement.

The Carrier has shown that its position is supported by Awards of the Third Division. The Committee has vaguely claimed such support but has cited nothing.

The Carrier respectfully requests the Third Division to dismiss the case as a jurisdictional dispute, or render a decision in favor of the carrier on the merits.

In either event, the Carrier further requests and petitions the Third Division to serve notice on the American Train Dispatchers' Association of the pendency of this dispute, and to permit that organization to participate in any further procedure in the case.

Oral hearing is requested in the event the case is not dismissed for lack of jurisdiction.

The position of the Carrier has been made known to the Committee, including the fact that the A.T.D.A. is an interested party.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The claim before us arises out of the abolishment of positions held by Telegraphers brought about by the installation of C. T. C. equipment at Mattoon, Illinois and the resultant discontinuance of six positions held by Telegraphers, between Mattoon and Pana, Illinois, a distance of approximately 39 miles. That upon the com-

pletion of installing the said C. T. C. equipment, at Mattoon, the work positions held by the Telegraphers were abolished, and the operation of the C.T.C. equipment was arbitrarily given to employes of another craft, not covered under the Telegraphers' Agreement, namely employes covered under and Agreement between this Carrier and the American Train Dispatchers Association.

We are in complete accord with previous opinions as rendered by this Board, and particularly Award 4768, paragraph 2 of the Opinion by Referee Mortimer Stone, and Award 4452 Carter Referee. In addition more recently Awards 6205 and 6206 are applicable to the case before us, and from a review of the record herein, no notice has been given all the parties interested in the case before us, more specifically the American Train Dispatchers Association, and on the basis of previous awards by this Division, we are of the opinion the Board has no jurisdiction in the matter, since the Telegraphers claim the positions involved belong to the Telegraphers, and the Carrier contends the work resulting by the installation of the C. T. C. system properly belongs to and is assigned to the Dispatchers. We therefore must remand the claim before us for further negotiation between the Carrier, the Order of Railroad Telegraphers and the American Train Dispatchers Association, since the matter is resolved into a jurisdictional dispute, on which this Board has no authority to determine. In case of disagreement, this matter should then be referred to the National Mediation Board for final disposition, as suggested by Award 4452.

**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 a jurisdictional dispute is involved, and the Board is without jurisdiction to reach a final determination.

#### AWARD

Remanded in accordance with the foregoing Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1953.