

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: Claim of the District Committee of the Brotherhood that

(a) The Agreement governing hours of service and working conditions between the Railway Express Agency, Incorporated, and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949, was violated when work in the Nebraska-Wyoming, Train Service Employees' Seniority District No. 5 was arbitrarily transferred to the Kansas City-Northern Kansas Seniority District, and train service employees of the Nebraska-Wyoming, Seniority District No. 5 were denied the right to perform work belonging within their seniority district; and

(b) This work shall be restored to train service employees in the Nebraska-Wyoming Train Service Employees' Seniority District No. 5 and all employees adversely affected by this arbitrary transfer of work be reimbursed for salary loss sustained retroactive to and including September 24, 1950.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 24, 1950, there was a pool of three messengers assigned to operate on Chicago, Burlington and Quincy Railroad Trains 16 and 15, Oxford-Table Rock, Nebraska Route, salary \$285.00 basic per month. Copy of Bulletin No. 34 dated September 17, 1949. (Exhibit A)

Prior to September 24, 1950 there was a pool of two messengers assigned to operate on CB&Q Trains 23-24-89-90, Lincoln-Wymore, Nebr. Route, salary \$273.75 basic per month. Copy of Bulletin No. 8, dated May 3, 1949. (Exhibit B)

Prior to September 24, 1950 there was a pool of six messengers assigned to operate on CB&Q Trains 41-42-43-44, Kansas City, Missouri-Lincoln, Nebr. via Tecumseh, Nebr. Route, salary \$289.20 basic per month, a separate seniority district. Copy of Bulletin No. 24, dated June 21, 1950. (Exhibit C)

September 21, 1950 Notice No. 57 was issued by Superintendent L. F. Schmit advising that effective with the discontinuance of CB&Q Trains 23-24 89-90 September 23, 1950, the two messenger positions assigned to operate

Route between Wymore and Table Rock was not a transfer of work from the Nebraska-Wyoming District to the Northern Kansas District, but only a transfer of traffic, not work, as held by Referee Hon. James H. Wolfe in Decision E-1253 of Express Board of Adjustment No. 1 in denying a similar demand as we have here involving discontinuance of Chicago, Burlington & Quincy Trains 10-14-15-9, Denver-Kansas City Route, Southern Nebraska-Iowa Division, and thereafter the traffic between Oxford and Denver being handled by messengers of the Inter-mountain Division.

In Decision E-1253, Judge Wolfe discusses bi-partisan Decision 989 of Board of Adjustment No. 1, denying a similar claim involving Chicago, Burlington & Quincy Trains 3-4, Burlington-Omaha Route. In that case two sets of trains ran between Chicago and Omaha. The messengers on the two sets of trains were in different seniority districts. Effective with the discontinuance of Trains 3-4 the traffic over the portion of the run discontinued, Burlington to Omaha, was handled by Trains 7-30. The Board in bi-partisan session denied the claim of the messengers discontinued to transfer with their run to the other Division. In commenting on that Decision, Judge Wolfe in Decision E-1253 said:

"In old Decision 989 under a rule which permitted Messengers to follow their work into another seniority district, it was held that there was no transfer of work where the traffic handled previously from Chicago to Omaha on Train 3 was transferred to Train 7 at Burlington, and no transfer of work where the traffic previously handled from Omaha to Chicago on Train 4 was transferred to Train 30 at Burlington, both Trains 3 and 4 being discontinued at Burlington. Messengers who had previously handled the work on Trains 3 and 4 from Burlington to Omaha and vice versa were not permitted to follow the traffic on Trains 7 and 30. Decision 989 of the bi-partisan board must have been derived from the conception that where traffic was transferred from one seniority district to another and the cars which housed the Messengers and their work did not go beyond the seniority district, there was a transfer only of traffic but not of work."

And in denying the claim in the Oxford-Denver case Judge Wolfe held:

"Such is the situation in the instant case. The car which previously housed the work stopped at Oxford. The transfer of traffic then went on to the car belonging to the run of another seniority district. This was not a 'transfer of work' but merely the diversion of traffic from one train to another, which may be done regardless of seniority districts."

Under these precedent decisions, it follows that there was no transfer of work from the Nebraska-Wyoming Division employees to employees of the Kansas City-Northern Kansas Division, but only an abolishment of service on certain trains in the former district, with consequent diversion of traffic to re-routed trains in the Kansas Division, which trains always housed the messengers in that district and which transfer of traffic may be done, as stated by Judge Wolfe, regardless of seniority districts.

The claim in the instant case is entirely without merit and should be denied.

All evidence and data have been considered by the parties in correspondence and in conference.

(Exhibits not reproduced).

OPINION OF BOARD: Formerly the Chicago, Burlington and Quincy Railroad Company operated trains 41-42-43-44 between Kansas City and Lincoln via Table Rock and Tecumseh, Nebraska, whereon the Carrier agency maintained service with a pool of six messengers from the Kansas City-Northern Kansas Seniority District.

It also operated trains 15-16 between Table Rock and Oxford via Wymore, and trains 23-24-89-90 between Wymore and Lincoln whereon Carrier agency maintained service with pools of messengers from the Nebraska-Wyoming District.

In September, 1950, trains 15-16 from Table Rock to Wymore and trains 23-24-89-90 from Wymore to Lincoln were discontinued and three messenger positions thereon were abolished, and thereafter trains 41-42 were rerouted between Table Rock and Lincoln to run via Wymore instead of via Tecumseh, thus furnishing a limited service in lieu of that formerly furnished by the abolished runs, and still continuing through service between Kansas City and Lincoln.

Upon the above changes being effected, the General Chairman of each district demanded the messenger work on Trains 41-42 and, failing at getting agreement between them, Carrier agency assigned the messenger service to the pool in the Kansas City-Northern Kansas Seniority District, which had previously performed the service on those trains via the former route.

It is asserted by Carrier and not denied that messenger seniority districts are not circumscribed by exact geographical boundaries nor based on inherent rights to any specific traffic, but may include specific trains on certain routes or on combination routes and may start in one district and run into another district, as in the case before us. We find resulting from this rerouting no change in definite limits of a seniority district involving Rule 5 and no transferring of position or work involving a position in violation of Rule 22.

The messenger service on trains 41-42 combined work formerly performed by both. It cannot now practicably be divided. The work on the Kansas City-Lincoln trains formerly was covered by the Kansas City-district pool. Although in part by changed route this was still the Kansas City-Lincoln train; the car which had previously housed the work and the equipment previously used continued through from Kansas City to Lincoln as before, except via the new route at the northern end of the run; the major part of both of the route and the service remained identical; therefore, we think the run properly remained within the Kansas City-Northern Kansas Seniority District, as determined by Carrier.

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 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

Agreement not violated.

AWARD

Claim denied.

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.