

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ATLANTIC COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad that:

(1) The Carrier violated the terms of the agreement between the parties, when on July 21, 1949, it declared abolished three (3) telegraph positions in the yard office at Southover (Savannah), Georgia, without in fact discontinuing the work and assigned the performance of this work to employees not covered by the Telegraphers' Agreement; and

(2) The three telegrapher positions at Southover Yard Office and the work thereof shall be restored to the agreement, and the employees improperly displaced shall be returned thereto and compensated in accordance with Article 8 for each day held off their regular assigned position; and

(3) All employees adversely affected by the Carrier's violative action in arbitrarily removing from the Scope of the Telegraphers' Agreement the positions and the work thereof at Southover Yard shall be compensated for all monetary losses sustained.

EMPLOYEES' STATEMENT OF FACTS: The Order of Railroad Telegraphers, which will be hereinafter referred to as Employees or Telegraphers, having been duly designated as collective bargaining agent, for its craft, on the Atlantic Coast Line Railroad, which will be hereinafter referred to as Carrier or Company, did on the 1st day of November 1939, enter into an agreement with the Carrier regarding hours, rates of pay and working conditions, which agreement is in full force and effect. A copy of same, having been, filed with this Board, by the Carrier.

The matter in issue involves the alleged or attempted abolishment, by Carrier, of three positions at its Southover Yard Office, without in fact, eliminating the work encompassed by such positions. When the telegraphers were removed from their positions, others, not covered by the agreement, were and are continuing the same work, theretofore performed by Employees.

Carrier is one of the major railroads of the United States, operating 5,562 miles of rail lines. In connection with other carriers, it is able to operate passenger trains from Boston to Miami, practically all on double track lines. The operations on Carrier's own rails are centered in the states of Virginia, North Carolina, South Carolina, Georgia and Florida.

this month as a basis and comparing it with March, 1952, the following will be observed:

There was a decrease of 27% in the number of cars arriving and leaving Southover. Approximately 45% fewer through freight trains were operated in and out of this terminal due not only to decline in traffic available to move, but also to trains of greater car capacity being handled by diesel power. There was a reduction of 47% in the number of employees in the Mechanical Department, most of these being employees engaged in the repair and servicing of locomotives. Reduction in the storehouse forces was 80% and reduction in clerical forces in the yard office, 27%. While these large decreases were occurring in the number of cars handled, trains operated and persons employed in other crafts, it is interesting to note that there was only a 13% decrease in the telegraphic force employed in the Savannah Terminal.

With the discontinuance of repairs to steam locomotives, reduction in number of engines serviced, together with reduction in amount of traffic handled, it may readily be seen that the amount of telegraphing would decrease commensurately. This further confirms statement previously made to the effect that the need for telegraphers in the Southover yard office no longer exists, even if the assignment of such employees might be a convenience to the yard forces at that point.

It has been clearly shown that the telegraph office at Southover Yard has been discontinued in fact, and that telegraphic work heretofore performed at that office by telegraphers has subsequent to its discontinuance been performed at other locations on the terminal by employees also subject to the Telegraphers' Agreement. It has also been shown that the need for telegraph service in the yard office no longer exists; therefore, the claim of the Employees is without merit in any respect and should be declined.

The respondent carrier reserves the right, if and when it is furnished with the ex parte petition filed by the petitioner in this case, which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioner in such petition and which have not been answered in this, its initial answer.

Data in support of the Carrier's position have been presented to the Employees' representative.

(Exhibits not reproduced).

OPINION OF BOARD: In our Award No. 434 we held that to eliminate or combine positions, which have been negotiated into the Agreement, the Carrier is obligated to follow the procedures established for the modification of the Agreement except when such action is due to the elimination of the work and duties for which the position was created or to a change in the service required since the position was negotiated into the Agreement. See also Award No. 5507.

In this case the positions of first and second trick clerk-telegrapher at Southover Yard were negotiated into the Agreement of November 1, 1939. The work and duties of such positions were not eliminated but were assigned to telegraphers at other locations in the yard. There is evidence of a reduction in service required between March 1946 and March 1952, but no evidence to show any change as of July 21, 1949, to warrant the elimination of those positions at that time. Thus the unilateral abolishment of those positions was a violation of the Agreement upon the evidence here presented.

The third trick clerk-telegrapher position at Southover Yard was not listed in the Agreement so the foregoing is not applicable thereto. Upon the abolishment of that position, some of the duties thereof was assigned

to telegraphers at South Tower which is in another seniority district. We have regularly held that to be a violation of the Agreement. See Award No. 5437. To that extent the Agreement was violated upon the abolishment of that position and the reassignment of the duties thereof.

For a short time after the abolishment of these positions, it appears that some employes not covered by the Agreement made direct contact with the dispatcher to obtain or convey information relating to train movements. Such was undoubtedly a violation of the Agreement.

The claims of violation of the Agreement because of the use of the telephone by clerks to convey information to or receive information from telegraphers at North Tower or South Tower cover situations where the telephone was used in lieu of messenger service, personal delivery or face to face conversation which was formerly used to convey the same information to telegraphers at the yard office. The telegraphers involved were located within the same yard and not far from the yard office. Such use of the telephone is not a violation of the Agreement.

Complaint is also made about the use of the telephone by the yardmaster and the trainmaster to talk to dispatchers about power equalization, etc. Such use of the telephone is not a violation of the Agreement unless it is used as a substitute for telegraphic communication of matters of record in connection with train movements.

We have repeatedly held that we should not direct the reestablishment of the positions involved so that the Carrier may have the opportunity to reassign the work in conformity to the Agreement, negotiate thereon with the Organization or act in accordance with subsequent changes. Award 5507. Accordingly, only the portions of the claim dealing with allegations of Agreement violation and requesting reparation should be sustained and those only to the extent of the matters herein held to be violations of the Agreement.

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

The Agreement was violated.

AWARD

Claims sustained to the extent stated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 19th day of January, 1954.