

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

A. Langley Coffey, 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) Carrier violated Agreement, between the parties hereto, when on the 9th day of August, 1951, it arbitrarily and capriciously established a less favorable rate of pay for the position of Agent-telegrapher, New Brockton, Alabama, than that provided in the Agreement.
- (2) Carrier shall be required to restore rate of pay for Agent-telegrapher at New Brockton, Alabama, to that prevailing prior to August 9, 1951, together with any increase in rate of pay applicable to such position.
- (3) Carrier shall be required to compensate J. L. Bailey, Agent-telegrapher (or his successors to such position) New Brockton, Alabama, the difference between the amount paid and the amount agreed to be paid for such position, from August 9, 1951, until such violation is discontinued.

EMPLOYES' STATEMENT OF FACTS: On the 24th day of May, 1937, in Case No. R-331, the National Mediation Board, issued its certification of representation as follows:

"On the basis of the investigation and report of election the National Mediation Board hereby certifies that The Order of Railroad Telegraphers has been duly designated and authorized to represent telegraphers, telephone operators (except switchboard operators), agent-telegraphers, agent-telephoners, towermen, levermen, tower and train directors, block operators, staffmen and such agents as are shown in the existing wage scale of the Atlantic Coast Line Railroad Company, for the purpose of the Railway Labor Act."

Thereupon, The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers, and Atlantic Coast Line Railroad Company, hereinafter referred to as Carrier or Company, entered into a collective bargaining agreement concerning wages, hours of service and other conditions of employment, for all employees of Carrier within the bargaining unit. Such Agreement became effective on the 1st day of November, 1939, and has re-

has previously been done on many occasions when telegraphic duties were added to or taken from position or where any other changes took place that would justify an adjustment in the rate of pay.

The carrier did reclassify the position at Baconton from agent-telegrapher to that of agent (non-telegraph) effective July 16, 1951, but notwithstanding statement made by Mr. Keller under oath before the Georgia Public Service Commission, as outlined above, that the employes would offer no objection to the carrier reclassifying the position from agent-telegrapher to non-telegraph agent at a lower rate of pay, our records show that a claim was filed by him for the difference in rate of pay between the two positions, but the claim was declined.

The carrier requests that the Board deny claim in the instant case for the reason that it is not based on any provision of the current agreement; to the contrary, the carrier's action is fully supported by the terms of the current agreement, by custom, practice and understanding.

The respondent carrier reserves the right, if and when it is furnished with ex parte petition filed by the petitioner in this case, which it has not seen, to make such further answer and defense at 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: The docketed claim is from New Brockton, Alabama. Facts, so far as relevant, do not differ materially from those in Award No. 6954, same parties, same rules, and this day decided. Accordingly, that Opinion and Award govern in this docket.

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 Employee involved in this dispute are respectively Carrier and Employee 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 on basis of claim at issue and Employee statement of position, the Agreement was not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of April, 1955.