Award No. 7068
Docket No. TE-6899

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, 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 the Agreement, between the parties hereto, when commencing on or about the 1st day of July, 1952, it changed the condition of employment and reduced the net earnings of the agent-telegrapher and two clerk-telegraphers at Dunbarton, South Carolina, in that it required said employes to remove to Barnwell, South Carolina, and to commute daily thereafter between Barnwell and Dunbarton by use of their privately owned automobiles and failed and refused to reimburse these employes for such out of pocket expense.

2. Carrier violated the Agreement, between the parties hereto, when commencing on or about the 1st day of July, 1952, it changed the conditions of employment and reduced the net earnings of the agent-telegrapher and two clerk-telegraphers at Robbins, South Carolina, in that it required said employes to remove to Millett, South Carolina, and to commute daily thereafter between Millett and Robbins by use of their privately owned automobiles and failed and refused to reimburse these employes for such out of pocket expenses.

3. Carrier shall now be required to reimburse employes entitled thereto (names and amounts to be ascertained by joint check of Carrier's records) for such automobile expenses, at the usual mileage allowance paid by Carrier for such use of privately owned automobiles.

EMPLOYES' STATEMENT OF FACTS: Carrier on the dates involved herein maintained at Dunbarton and Robbins, South Carolina, station forces under our agreement as follows:

Dunbarton	Agent-Telegrapher	(first shift)
"	Clerk-telegrapher	(second shift)
"	Clerk-telegrapher	(third shift)
Robbins	Agent-Telegrapher	(first shift)
"	Clerk-telegrapher	(second shift)
"	Clerk-telegrapher	(third shift)

initiated by the Carrier which brought about any change in conditions of employment or reduction in their net earnings, as alleged by the Organization, nor has the Carrier been responsible for requiring its three employes at Robbins to move to Millett and thereafter commute between that point and Robbins, the place of their employment, by use of their privately owned automobiles, as is also alleged by the Organization. The employes cannot point to a single article in the current agreement which requires or even intimates that the Carrier should be required to reimburse employes for automobile mileage incurred by them in commuting between their homes and their place of employment. Undoubtedly, Carrier has thousands of employes who reside at some distance from their place of employment, but it does not compensate them for the automobile mileage they incur in going to and from their place of employment. Carrier's employes at Robbins and those formerly at Dunbarton are in no different position than these many other employes, other than the fact their place of residence was changed by Government decree, for which the Carrier has no responsibility, and in the case of the employes formerly at Dunbarton, that Government decree also brought about a change in their point of employment, likewise through no responsibility of this Carrier.

Carrier believes that it has effectively demonstrated that the moves which were made were not of its choosing or by its direction but, rather, by the direction of the Government; that it has also shown there is no provision in the current agreement which sustains the employes' claim for automobile mileage for commuting between their place of residence and their place of employment. There being no basis for such a claim, it naturally follows that it should be denied and Carrier respectfully requests that your Board so hold.

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 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 Employes' representative.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves two groups of employes who were compelled, by order of the A.E.C., to move their places of residence from one location to another, for security reasons. The agent-telegrapher and two clerk-telegraphers at Dunbarton, South Carolina, were required to locate their residences outside of a given area specified by the Atomic Energy Commission, while they continued to work within the area. At the same time, and in the same manner, the agent-telegrapher and two clerk-telegraphers stationed at Robbins, South Carolina, were required, by the same order of the A.E.C., to remove their residences from the restricted area. Subsequent to this A.E.C. order (which, in effect, countermanded a unilaterally established rule of the Carrier that such employes reside in an area reasonably close to their places of work) those employes at Dunbarton removed to Barnwell, S. C., and those at Robbins removed to Millett, S. C. In both instances the employes involved have found it necessary to commute to and from work, distances from ten to twelve miles each way.

Claimants are insisting that Carrier is obligated, under the terms of their Agreement, to reimburse employes for such automobile expenses as they have incurred in thus travelling to and from work. Several articles of the Agreement have been mentioned by the Organization; but only two have been discussed in relation to the claim for travel expenses. Article 2(a) provides that:

> "The entering of employes in positions occupied in the service or changing their classification or work shall not operate to establish

a less favorable rate of pay or condition of employment than is herein established."

The fallacy of this claim is in the assumption that the Carrier has been responsible for this change in the employes' places of residence. The record is very clear that this is not a true assumption. The Federal Government, through the A.E.C., is solely responsible for this change of circumstances. The Carrier did not issue the order. And this Board cannot conclude that the Carrier has committed any violation of Article 2(a).

Article 8 has been cited as having some pertinence in this situation. It provides for reimbursement of expenses incurred by employes in the performance of "relief work." We fail to see that it has any bearing upon the situation now before us. This is not relief work, but regular assignments carried on by the several employes involved.

The claim is one for an equitable adjustment to meet a situation which was not in existence at the time this Agreement was negotiated. No present rule covers it. And this Board is without power or authority to prescribe new rules for new and changed circumstances.

Since we find no rule in the Agreement which provides for the relief sought, this claim cannot be sustained.

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 no jurisdiction over the dispute involved herein; and

This Board is without authority to provide the relief sought.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 28th day of July, 1955.