

Award No. 7073
Docket No. TE-6802

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE NEW YORK CENTRAL RAILROAD COMPANY
(Line West)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central Railroad (Line West of Buffalo):

1. That Carrier violated the Agreement between the parties hereto, when on the 11th day of February, 1952, it declared abolished the position of Ticket Agent-Operator at Warren, Pennsylvania, without in fact abolishing the work of the position.
2. That Carrier further violated the Agreement when on the 11th day of February, 1952, it assigned regular hours to position of Agent-Operator, Warren, Pennsylvania.
3. That Carrier shall be required to restore position of Ticket Agent-Operator, Warren, Pennsylvania, as provided in the Agreement; that all employees adversely affected by the wrongful action of Carrier shall be paid for all wages lost and any expenses incurred thereby.
4. That R. F. Ward be paid in accordance with the Agreement because of having been wrongfully removed from his position of Ticket Agent-Operator, Warren, Pennsylvania, and further that he be paid all expenses incurred as a result of such violative action.
5. That M. A. Briggs be allowed call and/or overtime for work performed on each Saturday, since February 11, 1952, for train order and block work, performed as shown herein or revealed by joint check of Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: There is in full force and effect an agreement between The New York Central Railroad Company (Line West of Buffalo), hereinafter referred to as Carrier or Company and The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers. The Agreement was effective November 1, 1950, as to Rules, and September 1, 1949, as to rates of pay.

This dispute involves an interstate rail carrier on the one hand and its employees represented by The Order of Railroad Telegraphers on the other, and involves interpretation of collective bargaining Agreement between the

to when they shall be on duty and work which they shall perform, etc.;

7. Awards of the National Railroad Adjustment Board uphold the Carrier's position;
8. No rule, stipulation, custom or practice or logical reason can be cited in support of the claims in this docket and all claims stated or implied in Items 1, 2, 3, 4 and 5 of the Statement of Claim should be denied.

All evidence and data set forth in this dispute have been considered by the parties in conference.

(Exhibits not reproduced.)

OPINION OF BOARD: On February 11, 1952, the position of Ticket Agent-Operator at Warren, Pennsylvania, was abolished. The Organization contends that the abolishment of this position and the manner of distributing the remaining work of the position was in violation of the Agreement. The claim is that all employees adversely affected be compensated for losses sustained in accordance with agreement rules.

Prior to February 11, 1952, there were two telegrapher positions at Warren,—a Ticket Agent-Operator and an Agent-Operator. The Agent-Operator position was monthly rated and had been an excepted position until 1950 when it was brought within the Telegraphers' Agreement. In addition to the foregoing, Carrier maintained one Chief Clerk and one Checker position at Warren. The station was an open train order office from 8:00 A. M. to 5:00 P. M. All employees, except the Agent, had regularly assigned hours, the latter being monthly rated. A decline in business at Warren had been taking place for several years. As a result, the Ticket Agent-Operator position was abolished on February 11, 1950, and the remaining telegrapher's duties were assigned to the Agent-Operator and the remaining clerical duties to the Clerks in the same office. The Organization asserts that this was in violation of the Agreement.

The record establishes without question that the volume of business at Warren had fallen off more than 50% since 1947. Passenger train service had been abandoned and regularly scheduled freight trains had been discontinued. Switcher service was maintained. The work at the station necessarily decreased with the loss of business volume. The Carrier found it necessary to reduce its station forces and on February 11, 1952, the Ticket Agent-Operator position was abolished.

Prior to February 11, 1952, there were two telegrapher positions and two clerical positions at this station. The Carrier proceeded to rearrange the work at this point as it had a right to do so long as contract provisions were not violated. Carrier determined that all telegraphic work and such other agency duties as the Carrier requires could be performed by the Agent-Operator. The clerical work of the station was assigned to the two clerical positions. We find nothing in the rules on this Carrier which prohibits the Carrier from assigning the telegraphic work to the Agent-Operator, even though he was a monthly rated employee. All telegrapher's work is being performed by a Telegrapher and the clerical work is being performed by Clerks. It is entirely proper for the Carrier to so assign the work of this station, in the absence of an agreement provision which prevents it. Awards 5515, 5803, 7066.

The Organization argues that the telegrapher's work was such that the Agent-Operator was in fact confined to the station during regular hours and amounted to an hourly assignment each day. This is only an incidental development of a proper assignment. If the Agent-Telegrapher is unable to perform all of the station duties required by the Carrier because his telegrapher duties confine him to the station, the solution of the problem is a

managerial function. We fail to see how such a situation can have any bearing in the present dispute where it is shown that there has been no violation of any provision of the collective agreement.

The Organization contends that the Ticket Agent-Operator position was negotiated into the Agreement, that the work did not disappear but was either transferred to Clerks or consolidated with the Agent-Operator's position, and under such circumstances, the position of Ticket Agent-Operator could not be abolished under the existing agreement. The record discloses that the work in the station had been decreasing for some years but that it had not wholly disappeared. Substantial work of the abolished position remained. The remaining telegrapher work was assigned to a Telegrapher and the clerical work of the position was assigned to the Clerks as we have heretofore stated. The right of the Carrier to abolish positions does not appear to be questioned. The issue is whether or not the Carrier may abolish a position appearing in the wage scale where the work of the position has substantially decreased. We think it can. This conclusion is supported by Awards 4992, 5318, 5803, 6187, 6363, 6839.

The Organization further contends that the Agent-Operator could not properly do the rest day work of the abolished Ticket Agent-Operator position. This contention is without merit. The Carrier may properly use an employee of the same class and craft to perform rest day work in accordance with the views we expressed in Awards 6946, 6947, 6948. In addition to the foregoing, we point out that the Agent-Operator was a monthly-rated employee who was entitled to overtime pay only after working 208½ hours in a month, except as to Sunday work. He was not entitled to overtime pay merely because he was used on a Saturday in performing rest day work of the former position of Ticket Agent-Operator.

We have examined all the purported issues raised by the submissions of the parties to this case. We find nothing therein that convinces us that the Carrier violated the terms of the collective Agreement. We think the Carrier properly exercised its managerial prerogative in rearranging the station work at Warren as it did under the circumstances shown by the record.

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 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

That the Agreement was 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 28th day of July, 1955.