

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

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

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that the Carrier violated the rules of the current Agreement, effective September 1, 1950;

1. When on October 18, 1953, they assigned work of calling train and engine crews to an Operator at Cut Bank, Montana, who was not covered by the rules agreement;
2. That the Carrier now be required to compensate Theodore M. Feland (who was later assigned to the position) for eight hours at the regular rate of the position for October 18, 1953 to and including November 19, 1953.

EMPLOYEES' STATEMENT OF FACTS: On October 18, 1953 the Carrier made a change in train and engine terminals from Blackfoot to Cut Bank, Montana. The force at Cut Bank prior to moving the terminal consisted of the following: Agent, Ticket Seller, three Telegraph Operators, Cashier, Bill Clerk, Rate Clerk, Station Clerk, Warehouse Foreman, two Warehousemen and one Relief Clerk. The force at Cut Bank after the terminal was moved was identical with the exception that due to business increase one additional warehouseman was added in November.

The force at Blackfoot prior to moving the terminal consisted of an Agent, three Operators and one Relief Operator. After the terminal was moved, the same force was maintained until October 26, 1953 when the first truck operator position was removed.

The train and engine crews at these points naturally were changed from Blackfoot to Cut Bank, Montana. The old terminal which was operated at Blackfoot consisted of little more than a siding and therefore, the Carrier had provided a large room and dormitory to house these employees because there were no other facilities available at Blackfoot. After the terminal was moved to Cut Bank, which being a town of considerable size containing rooming houses and a hotel, the train and engine crews naturally scattered to the various rooming houses all over town. This made the calling of these crews much more difficult than it had been at Blackfoot. It was necessary to assign an employee to the calling of these crews and the Carrier set up the following method:

perform the identical work complained of herein for a period of twenty-five years at Blackfoot without claim or protest. (See your Awards 5404 and 5509).

The Carrier, therefore, holds that its action in this case was taken in good faith based on schedule rules, their long accepted interpretations, and the awards of your Board, inasmuch as when the work of calling crews was transferred from Blackfoot to Cut Bank a third trick telegrapher was used to call crews, just as the third trick telegrapher had been doing it at Blackfoot for twenty-five years without claim or protest and, that when it was discovered that such telegrapher was unable to perform the calling at Cut Bank incidental to his telegraphic services, due to conditions which could not be anticipated, a full time employe coming under the Scope of the Clerks' Agreement was put on to perform the calling and other clerical duties.

Under such circumstances, the claim in this case is without merit and should be denied.

It is hereby affirmed that all data herein submitted in support of Carrier's position has been submitted in substance to the Employee Representatives and made a part of the claim.

(Exhibits not reproduced.)

OPINION OF BOARD: Claim here concerns the allegation that between October 18 and November 19, 1953, the Carrier improperly assigned duties of calling train and engine crews at Cut Bank, Montana, to employes not covered by the effective agreement.

Respondent here abandoned Blackfoot, Montana, as a site of terminal for freight crews, transferring and consolidating operations to and at Cut Bank, Montana.

Prior to said abandonment, all train and engine crews used a large dormitory type building, situated near the station, as a place to live during lay-over periods, and were called to service by telegraphers, said calling activities on the part of the said telegraphers being considered as incidental to their other duties.

The over-all operation at Cut Bank was much larger than that at Blackfoot. Many members of train and engine crews lived a considerable distance from the station, and some at places where it was necessary that they be called in person.

The Carrier properly recognized that the duties of calling crews belonged to those covered by the effective agreement when such work on the first and second tricks was assigned to clerical employes on October 18, 1953. The work of calling crews on the third trick was assigned to a clerical employe on November 19, 1953. During the interim such duties (on the third trick) were assigned to the telegrapher. It is this action that forms the basis of the instant claim.

The Carrier relies on past practice at Blackfoot to justify its assignment of "calling work" to the third trick telegrapher at Cut Bank.

The Respondent by assigning such work to clerical employes on the first and second tricks recognized and admitted that said work belonged to those covered by the effective agreement. A timely survey would have revealed the "overall calling workload", which the Respondent admittedly became aware of "in a few days."

We do not think that past practice at Blackfoot is, or can be, controlling at Cut Bank. The fact that telegraphers performed this work at Blackfoot is immaterial. The work was clerical work and the evident volume thereof on the third trick during this entire time in question could not properly be considered as incidental to the duties of the telegrapher.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

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