

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

H. Raymond Cluster, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Eastern Lines)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway System that:

1. The Carrier violated the agreement between the parties when, beginning April 1, 1952, it unilaterally imposed upon the occupants of the agent-telegrapher positions at Lockport and Lemont, Illinois, the duties in connection with the handling of express shipments and the accounting work incident thereto, previously belonging to and performed by employes of the Gulf, Mobile & Ohio Railroad; which action constituted the establishment of new positions; and
2. The Carrier further violated the agreement by refusing and continuing to refuse to establish a proper rate commensurate with the work imposed, and in conformity with the agreement; and
3. Carrier shall now adjust the hourly rates for the positions of agent-telegrapher at Lockport and Lemont, Illinois, upward in an amount equivalent to the average of the express commissions previously accruing to the employes of the Gulf, Mobile & Ohio Railway; such increases shall be retroactive thirty (30) days prior to August 8, 1952.

EMPLOYES' STATEMENT OF FACTS: An Agreement between the parties bearing effective date of June 1, 1951, is in evidence.

The Lockport and Lemont, Illinois communities are served by both the Atchison, Topeka & Santa Fe Railway and the Gulf, Mobile and Ohio Railways; the stations of the two railroads are located approximately one mile apart at Lemont, and approximately one half mile apart at Lockport. Prior to April 1, 1952, the G. M. & O. Railway had local passenger train service between Springfield and Chicago on which practically all express shipments consigned to and from Lockport and Lemont were handled. These express shipments were handled in the G. M. & O. railway

All that is contained herein has been both known and available to the Employees and their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier and the GM&O Railroad each maintain stations in Lockport and Lemont, Illinois. Prior to approximately April 1, 1952, the great bulk of Railway Express Agency shipments destined for these two communities were carried on GM&O local passenger trains. These shipments were handled at GM&O stations in Lockport and Lemont by GM&O employees, who received a commission in addition to their regular salaries for such work. Some express shipments were carried to the two points involved by Carrier's trains and were handled at its stations there by its agent-telegraphers. Since 1917, agent-telegraphers and other employees of Carrier have been required to handle express shipments as part of their regular duties, without additional commissions.

On April 1, 1952, the GM&O discontinued its local passenger service to Lockport and Lemont and as a result, the Railway Express Agency began shipping the freight formerly carried by the GM&O on trains of the Carrier. The duties and responsibilities in connection with these shipments fell upon Carrier's agent-telegraphers at these two points, substantially increasing their work without a corresponding increase in pay. The claim is on behalf of these two employees for an increase equivalent to the average of the express commissions previously received by the GM&O employees for doing the same work. The theory of the claim is that the imposition of this work upon Carrier's employees constituted the establishment of new positions under Article II, Section 6 of the Agreement. The relevant portion of Section 6 reads as follows:

"Except as otherwise provided . . . when new positions are created . . . , the rate of pay thereof shall be fixed in conformity with that of existing positions of similar work and responsibility in the same seniority district. This Section 6 applies only in the creation of a new position, that is, one not previously in existence . . ."

Petitioner argues that in 1917, when Carrier stopped paying commissions to its employees for handling express shipments, the adjustment in pay rates made at that time reflected the amount of express then handled, not the greatly increased amount now involved. Also it is contended the only express work required of agents since 1917 has been express work on which no commissions have been paid; whereas the work which is the subject of this claim is work on which commissions were paid to GM&O employees. This work, therefore, is new work for these positions and makes them new positions, according to Petitioner.

We cannot agree with this argument. The work of handling express shipments is the same, whether additional commissions are paid for it or not. Work of this type has always been part of the requirements of the agent-telegrapher positions. No new position has been created and therefore Section 6 does not apply. It is true that the agent-telegraphers are required to perform much more express work than heretofore; it may be that they are justified in demanding increased wages. However, it is outside the jurisdiction of this Board to determine such matters and we express no judgment on it. We can only hold that no provision of the Agreement requires the requested increase; it is a matter for collective bargaining between the parties.

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: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 11th day of October, 1957.