

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Delaware, Lackawanna and Western Railroad, that:

1. The Carrier violated the Scope Rule of the Telegraphers' Agreement, when, acting alone, it removed from the Telegraphers' Agreement and from employees under said Agreement the operation of the telephone train order signal at Vestal, N.Y., on July 12, 1945, and the newly installed telephone train order signal at Wayland, N.Y., on same date, and the newly installed telephone train order signal at Owego, N.Y., on August 18, 1945, and transferred said operation to employees not covered by the Telegraphers' Agreement at Buffalo, N.Y.;

2. The work of operating the telephone train order signals at Vestal, Owego and Wayland, N.Y., by means of levers from a central point shall be restored to the Telegraphers' Agreement and be performed by employees covered by said Agreement; and

3. Pending the restoration of this work to the Telegraphers' Agreement and to employees covered by said agreement, the Carrier shall pay a day's pay to the senior employees not working on each day of which such service is performed by employees not covered by the Telegraphers' Agreement.

EMPLOYEES' STATEMENT OF FACTS: An Agreement by and between the parties, referred to herein as the Telegraphers' Agreement, bearing effective date of May 1, 1940, is in evidence; copies thereof are on file with the National Railroad Adjustment Board. A revised Telegraphers' Agreement bearing effective date of November 1, 1947, superseding the May 1, 1940 Agreement, is also in evidence and on file with the National Railroad Adjustment Board.

Prior to July 12, 1945, the telephone train order signal at Vestal was operated by telegraph schedule employees at that location. Effective July 12,

* * *

"It must be borne in mind that when the Scope Rule of the Telegraphers' Agreement was negotiated, CTC installations were unknown and consequently not contemplated by the signatories to that agreement.

* * *

"The work of a towerman or leverman is necessarily restricted in the scope of its operation to the vicinity of the tower. A CTC operation is handled from a central point and controls large sections of a railroad line. Its scope of operation is much greater.

* * *

"The dispute will, therefore, be remanded for negotiation between the Carrier, the Telegraphers and the Dispatchers and in case of failure, the **National Mediation Board and not this Board constitutes the proper forum** for its final settlement." (Emphasis added.)

In Award 5374 this Board said:

"Since 1945 the parties have been afforded two opportunities by this Division to settle the question involved herein through collective bargaining (Awards 2972, 3716), but the controversy remains unresolved. Here we are confronted with a 284 page docket but again, as in the two previous instances, broad, comprehensive findings are sought in settlement of any important overall controversy brought about by the advent of the centralized control traffic system. Such determination is requested upon a record which is hardly representative of general operations on this property. To consider this isolated case upon its peculiar facts, undoubtedly would invite further submissions with a result that the Division rather than the parties through collective bargaining, ultimately would evolve rules to govern the parties in connection with CTC operations. Such is not the intended function of this Board."

On this Carrier, too, the Board has left no doubt that it is not the intended function of the Board to evolve rules for the government of the parties in connection with CTC operations.

Laches, unreasonable delay and the opinion of this Board that the matter is one to be resolved by the parties themselves all bar the claim in this case.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves the same property, parties and issue as those in Docket TE-8145. Award No. 8458 disposed of the issue in that docket and is controlling here.

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 is without jurisdiction to determine the dispute.

AWARD

Claim remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 16th day of September, 1958.