

Award No. 8779
Docket No. CL-8135

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, that the Carrier violated the Clerks' Agreement:

- (1) When on August 23, 1954, the Local Agent at Pratt, Kansas, issued instructions to the second shift Telegrapher to make interline ticket reports and also to bill some carload and less than carload freight, as well as issuing instructions to the third shift Telegrapher to expense some carload and less carload billing.
- (2) That the clerical work of billing and expensing, as well as making interline ticket report, performed by Telegraphers, employes of another craft, be returned to the clerical forces.
- (3) That the Carrier be directed by appropriate Board Order to pay the claims filed by the clerical employes at Pratt, Kansas, effective August 23, 1954, by allowing a call account clerical work transferred to the second shift Telegrapher, for George A. Gorsulowsky, Yard Clerk No. 2 on Monday and Tuesday of each week; John R. Belton, Freight Clerk, Wednesday and Thursday of each week; Frank P. Shea, Cashier, Friday and Saturday of each week; and Harley P. Grover, Extra Clerk, Sunday of each week;
- (4) Also that the Carrier be directed by appropriate Board Order to pay the claims filed by clerical employes at Pratt, Kansas, effective August 23, 1954, by allowing a call account clerical work transferred to the Third trick Telegrapher, for Byron K. Whitehead, Relief Clerk No. 20, for Monday and Tuesday of each week; S. S. Keene, Yard Clerk No. 3, for Wednesday and Thursday of each week; Jack Kirkpatrick, Relief Clerk No. 21, Friday and Saturday of each week; and Harley P. Grover, Extra Clerk, for Sunday of each week.

EMPLOYES' STATEMENT OF FACTS: August 18, 1954, Assistant Superintendent, Mr. F. B. Gibbs, and the Division Chairman of the Clerks Or-

applied to previous cases and in your opinion in Award 7198 referred to Award 615, stating that the findings in that previous case properly applied to that recent claim, namely:

" . . . It has always been the rule that telegraphers may be assigned clerical work without limit except their capacity to fill out their time when not occupied with telegraphy."

In view of the long history of this issue before your Board and the determination of it under the applicable agreement in previously cited awards on this property and others, the Carrier has rejected the Organization's claim and we respectfully request your Board to do likewise.

It is hereby affirmed that all of the foregoing is, in substance, known to the Organization's representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: A mere reading of the claim indicates that if a sustaining award should be written in this case, that the telegraphers mentioned would be deprived of some of the work they are now doing. They are "involved."

A reading of the record indicates the possibility of a sustaining award.

Under the law a sustaining award would be ineffectual against these telegraphers. For this and other reasons as appear in our Award 8408 a determination of this claim on its merits must be deferred pending notice to the telegraphers giving them an opportunity to be heard.

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 jurisdiction over the dispute involved herein, subject to the following finding as to notice:

That The Order of Railroad Telegraphers is involved in this dispute and is therefore entitled to notice of hearing pursuant to Section 3, First (j) of the Railway Labor Act, as amended; and

That the merits of the instant dispute are not properly subject to decision until such notice is given.

AWARD

Hearing and decision on merits deferred pending due notice to The Order of Railroad Telegraphers to appear and be represented in this proceeding if it so desires.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 15th day of April, 1959.