

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
THE TEXAS AND PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Texas and Pacific Railway, that:

1. The Carrier violated and continues to violate the Agreement between the parties when, on or about November 11, 1957, it displaced the second shift telegrapher at Santo, Texas and established at this station three train dispatcher positions around the clock, and assigned thereto train dispatchers removed from Big Spring, Texas train dispatchers' office who now are performing work covered by the Telegraphers' Agreement.
2. The Carrier shall, because of the violation set forth above, commencing on or about November 11, 1957 and daily thereafter so long as the violations complained of exist, compensate the senior idle telegrapher, extra in preference, entitled to the work, a minimum day's pay at the proper rate for each eight (8) hour shift during which employes outside the Telegraphers' Agreement perform work covered by the Agreement and which said employes would have performed but for the violative act of the Carrier.

EMPLOYES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Santo, Texas is a station located on the Western Division of this Carrier's lines between Fort Worth, Texas and Big Spring, Texas, a distance of 267 miles. Santo is 63 miles west of Ft. Worth and 204 miles east of Big Spring. Prior to November 11, 1957 there were two positions under the Agreement at Santo. Agent-Telegrapher 8:00 A.M. to 4:00 P.M. and telegrapher 10:30 P.M. to 6:30 A.M., both seven-day positions.

This Carrier decided to install CTC (Centralized Traffic Control) on a portion of the Western Division from Lancaster Yard (Ft. Worth) to Judd, Texas (6 miles west of Santo), a distance of about 63 miles. The CTC control panel or machine was installed at Santo.

The installation of CTC from Mineola to Dallas in 1955 made it possible to reduce the train dispatcher forces to the lowest number it has ever been in the history of this railroad. A full set of dispatchers' positions were abolished at that time. As, and if, the CTC installation progresses westward, we do not know at what point it might also be possible to abolish a set of train dispatchers on the Western Division. The officers of the Company certainly cannot accurately predict such things in advance. We point out, however, that there are many reasons for installing CTC, among which reasons are: (1) safety; (2) efficiency; (3) reduction of forces; (4) other economies. Modern facilities, such as CTC, are available, and any company hoping to stay in business must take advantage of such facilities as will promote efficiency and economy.

In closing, the Carrier respectfully submits that train dispatchers at Santo are not performing any service which has ever been reserved exclusively to telegraphers by contract, or otherwise. Petitioner has done no more than to again attempt to thrust upon your Board a jurisdictional dispute, which Petitioner has tried to create. The Carrier submits that your Board should dismiss this case, the same as you have consistently done in such cases in the past. Please see your Award Nos. 4452, 4768, 4769, and 8143.

OPINION OF BOARD: A CTC system was installed at Santo, Texas on November 11, 1957. Effective that date, two telegrapher positions were abolished and three regular and one relief dispatcher positions were established. The dispatchers were assigned to operate the CTC board.

Santo was a telegraph office. It is Petitioner's position that by custom, practice and tradition CTC boards have been manipulated by telegraphers when installed in a telegraph office and by dispatchers when installed in a dispatching office. But "at no time at least in recent history has a dispatcher's office been moved into a telegraph office for the purpose of displacing telegraphers and for assuming their duties as has been done in the Santo case."

The parties agree that neither telegraphers nor dispatchers can claim the exclusive right to operate or manipulate CTC boards. At Fort Worth dispatchers operate the board. At Marshall telegraphers manipulate the board under the supervision of dispatchers.

Petitioner argues, however, that in 1929 the first CTC system, which was installed between Dallas and Fort Worth in the Arlington telegraph office, was manipulated by telegraphers at Arlington. In 1934, the board was moved to Fort Worth, a dispatch office, and dispatchers have since operated the board. Since 1937, telegraphers have manipulated the CTC board at the telegraph office at Marshall. This constitutes a custom, practice and tradition which, says the Petitioner, Carrier ignored when it assigned dispatchers to operate the CTC board in the telegraph office at Santo.

We do not believe that this constitutes a firmly established custom, practice and tradition. The record shows that the telegraphers who manipulate the CTC board at Marshall are under the supervision of the dispatchers who work at Fort Worth. The dispatchers, who were assigned to operate the CTC system at Santo, had previously issued train orders for the same territory while they worked at Big Spring. When they moved to Santo they added only the manipulation of the CTC board to their duties.

Furthermore, trains operating west of Fort Worth are in the Western Division. Trains operating east of Fort Worth are in the Eastern Division. Each Division is under the jurisdiction of a different Superintendent. The CTC system installed in 1957 at Santo extended westward from Fort Worth to Judd. The dispatchers, who were assigned to Santo, had been and continued to be under the supervision of the Superintendent of the Western Division. The telegraph office at Marshall is in the Eastern Division.

In more than thirty years prior to November 11, 1957, only two stations at any one time have housed such CTC apparatus.

On December 27, 1934, Petitioner's General Chairman protested the assignment of the work to dispatchers when the CTC equipment was moved from Arlington to Fort Worth. The letter to Carrier, in part, said:

"The centralized control positions have not been abolished. They are still being operated, but have been moved from one location to another and we feel that the former incumbents at Arlington should have gone along with their jobs when the plant was moved to Fort Worth . . ."

After a conference on this dispute on January 9, 1935, Carrier replied denying any violation of the agreement occasioned by the abolishment of the telegraphers' positions at Arlington. Petitioner submitted this claim again in a letter dated May 4, 1938. Carrier replied on May 6, 1938, in part as follows:

"Referring to the last paragraph of your letter, if you are in a position to act for the organization would suggest that you see Mr. Tobin with a view of you and he agreeing on a statement of facts, provided you intend to submit this case to the National Railroad Adjustment Board."

Petitioner neither replied to that letter nor did it submit that claim to the Board. This evidence, which appears in Carrier's Ex Parte Submission, is not denied.

We are inclined to agree with the Carrier that there is no system-wide practice, custom and tradition that telegraphers manipulated CTC boards whenever the equipment was installed in a telegraph office. The burden of proving such a practice, custom and tradition is upon the Petitioner. The evidence in the record does not justify the finding that Petitioner has met that burden of proof.

Since the claim is disposed of on the merits, it is not necessary to discuss the procedural objections raised by Carrier.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1964.