

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the Telegraphers' Agreement when at its one-man station Belmont, North Carolina, it deprived the assigned relief agent-telegrapher W. C. Tollison of the work of handling (namely to rate, extend, expense and collect charges) inbound way bills covering car loads of coal for Duke Power Company, Allen Plant, Belmont, North Carolina.

2. Carrier shall compensate the employee under the Telegraphers' Agreement protecting this position, be it Relief Agent Tollison or regular assigned Agent-Telegrapher C. L. Albright or others who may later be assigned to protect this position, at time and one-half rate (regular rate being \$2.17 per hour on April 24, 1957, adding three cents per hour after May 1, 1957 under the cost of living adjustment provisions) for each hour work deprived the employee protecting this position beginning April 24, 1957 and until the duties or work at Belmont are restored to condition prior to April 24, 1957. The Carrier shall be required to state the daily number of way bills covering coal for Duke Power Company, Belmont, North Carolina, on which the billing is being handled from Charlotte Freight Office, with that number in mind agreement or understanding shall be reached between the Carrier and Organization to determine the number of hours of work Agent-Telegrapher, Belmont, is being deprived of.

EMPLOYEES' STATEMENT OF FACTS: Belmont, North Carolina, shown on page 71 of the Telegraphers' Agreement, is a one-man agent-telegrapher station on the Carrier's main line between Greenville, South Carolina and Charlotte, North Carolina. It is located approximately 11 rail miles southwest of Charlotte with assigned hours for the agent-telegrapher of 7:45 A.M. to 4:45 P.M. with one hour off for lunch. His assigned work week is Monday through Sunday with Saturday and Sunday as rest days. Mr. C. L. Albright is the regular assigned employee at Belmont. Telegrapher W. C. Tollison relieved Agent Albright on April 22, 1957 for the purpose of the vacation of Mr. Albright.

(c) Prosecution of the absurd claim here presented by the ORT is nothing more than an effort to create work for employes of the telegraphers' class or craft.

(d) The matter of assigning work is a managerial prerogative and neither the employes nor their representatives nor the Adjustment Board have any voice in the matter.

(e) If the management should elect to have the work performed at Belmont, it would be assigned to and performed by a clerical employe, not by an employe of the telegraphers' class or craft. Under no circumstances would it be performed by the agent-telegrapher at Belmont on an overtime basis.

(f) The fact that the agent-telegrapher at Belmont is a party to the telegraphers' agreement while the agent at Charlotte is excepted therefrom is of no significance, because the work is not being performed at Charlotte by the agent. Instead, it is being performed by clerical employes, the same class of employes who would perform the work were it to be performed at Belmont.

Claim being an absurdity, the Board cannot do other than make a denial award.

OPINION OF BOARD: The facts are: Belmont, North Carolina, is a small town on Carrier's Charlotte Division located 11.4 miles south of Charlotte, North Carolina. Its one employe was classified as agent-telegrapher. A power company built a plant nearby, and upon its completion about April 1, 1957, coal shipments began moving to the plant. On April 24 arrangements were made to move the shipments into the plant on manifest way bills, and the revenue bills were sent to Charlotte where all the clerical and accounting work in connection therewith was performed.

The basic question is whether the Carrier violated the Telegraphers' Agreement in diverting the clerical work from Belmont to Charlotte.

Preliminarily, the Carrier attacked the claim as being too vague and indefinite and as being brought in behalf of unnamed Claimants. Neither of these defenses was raised on the property. Moreover, in our opinion, the claim is not too vague or indefinite. The work involved was clearly identified, easily ascertainable from the Carrier's records. Likewise, the Claimants are identifiable in that they are named or their identity is ascertainable from the Carrier's records without difficulty. See Award 12299. This claim should be decided on its merits.

The Petitioner based its claim upon an alleged proprietary right of the agent-telegrapher to the work involved. It argued that since the situs of the work was Belmont, it belonged to the personnel at Belmont. In this respect the basis for the Petitioner's claim lies in the Scope Rule. Here the Scope Rule is general and this Board has held that under a general Scope Rule the exclusive right to perform the work in question must be established by tradition and long practice. Award 12298.

The work involved is clerical work, not traditional to telegraphers, but performed by them in rounding out their work day. As such it does not belong to the Claimant by virtue of the Scope Rule.

Petitioner, relying on Award 602, argued that all of the work at a one-man station belongs to the agent-telegrapher. Award 602 is distinguishable upon the facts. There the diverted work continued to be performed at the station. In our case the diverted work was performed elsewhere.

The question confronting us is not who has the right to do the work at Belmont but may the Carrier remove work from Belmont and have it performed at another station. We have examined the Awards of the Board and find no unanimity of opinion. In our case, however, we think the Carrier has such a right. This was new work which when removed did not diminish the traditional work of the agent-telegrapher. It was work which normally was done by clerks not telegraphers, and here would merely have rounded out the agent-telegrapher's day or would have required overtime work. The work itself was not of the kind which has situs. It involved the preparation of revenue bills not way bills. It consisted of rating, extending and expensing the bills sent to the consignee. It need not accompany the shipment but could be prepared elsewhere. In Award 4969 we held it was proper for a Carrier to assign the work of preparing way bills to a clerk "in order to avoid the payment of overtime when the Telegrapher's regular assignment remains as before . . . Work that is clerical in character which is in excess of that necessary to round out the assigned hours of a telegrapher . . . can be properly assigned to a clerk." If way bills may be diverted under such circumstances, revenue bills have even more reason to be so treated.

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 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 10th day of April 1964.