

Award No. 12487
Docket No. TE-11280

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
GULF, MOBILE AND OHIO RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Mobile and Ohio Railroad that:

1. Carrier violated the agreement between the parties when, on April 28, 1958 and June 5, 1958, it required or permitted a yardmaster at Glenn Yard, Illinois to perform the work of a block operator, handling Detour Orders governing the movement of trains against the current of traffic, at a time when the operator was off duty and available.

2. Carrier shall compensate A. A. Alcorn, first trick Telegrapher-Clerk at Glenn Yard on April 28, 1958 in the amount of two hours' pay and the time and one-half rate and J. P. Turley, first trick Telegrapher-Clerk at Glenn Yard on June 5, 1958 in the amount of two hours' pay at the time and one-half rate.

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

Glenn Yard, Illinois, is a station on this Carrier's lines near Chicago, Illinois. Carrier maintains a freight yard facility at this location for the purpose of making up and switching freight trains and other related work. The main tracks pass through this freight yard to the Union Station for the use of first class trains. There are employees in several classes and crafts employed at Glenn Yard.

For many years continuous communication service was maintained at this station with three basic positions and rest day relief. About 1951 Carrier reduced this to two shifts. The first shift with assigned hours of 6:00 A. M. to 2:00 P. M. and the second shift 4:00 P. M. to 12 o'clock Midnight. These were the assignments in effect at the time cause for this claim arose. A. A. Alcorn was the regularly assigned occupant of the first shift on April 28, 1958 and J. P. Turley, regular relief operator, was assigned to the first shift on June 5, 1958.

This claim is not in accordance with the Agreement, past practice and custom and it is urged that the Board deny this claim.

(Exhibits not reproduced.)

OPINION OF BOARD: The petitioning Employees contend that their rights were invaded when a Yardmaster handled detour orders directing train movements within terminal limits at Glenn Yard while no Telegrapher was on duty at that point.

Carrier categorically denies that the provisions of the Scope Rule are applicable and that it has always been the practice at this location for either Yardmasters, Switchtenders or Telegraphers to handle detour orders.

Details of the dispute resulting from these conflicting contentions are adequately set out in the record and need not be repeated.

It is well established that Petitioners before this Board have the burden of proving their allegations by convincing evidence, appropriate rule authority, or both. (Awards 11331, 11343 and 11707.) After a thorough consideration of the record, we must conclude that the Employees have not established by competent proof that the action of the Yardmaster constituted a type of work reserved to Telegraphers by the terms of their Agreement.

Therefore, the claims must be denied.

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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of May 1964.