

Award No. 12708
Docket No. TE-13218

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Louis Yagoda, 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. The Carrier, on or about July 3, 1960, initiated and put into effect a program on a system-wide basis of removing a large portion of communication work, namely — transmitting and receiving messages and reports of record, which had from time immemorial been performed by employees covered by the Scope of the Telegraphers' Agreement, and

2. It is now requiring or permitting employees not coming within the Scope of said Agreement to perform by means of telephone in lieu of telegraph, printer and other mechanical telegraph machines, communications service which is reserved to employees of the classes enumerated in the Agreement, and

3. In doing so, the Carrier violated, and continues to violate, the provisions of the Telegraphers' Agreement, as is shown in the violation herein. This is a continuing claim for all violations subsequent to the date shown herein, and

4. On July 18, 1960, Clerk W. D. Leonard transmitted by telephone, message of record to A. N. Thibeu, Operator at John Sevier, Tennessee.

5. Carrier shall compensate B. J. Moore, senior idle extra employee, Knoxville Division, by paying him one day (8 hours), at the minimum rate of pay for Clerk-Telegraphers, Knoxville Division, July 18, 1960, and the same compensation shall be allowed B. J. Moore for each subsequent date that the violation of receiving and transmitting messages and reports of record is permitted.

EMPLOYES' STATEMENT OF FACTS: *On or about July 3, 1960, the Carrier put into effect a program on a system-wide basis of removing a large portion of communication work, namely, transmitting and receiving messages and reports of record, which had from time immemorial been performed by*

OPINION OF BOARD: The claim alleges a violation, because, at about 12:30 P. M. on July 18, 1960, a Clerk in the Train Dispatchers' office at Knoxville, Tenn., telephoned to a Clerk-Telegrapher in John Sevier Yard in the Knoxville area, instructions about movement that evening of a car of storage mail from Knoxville to Johnson City, Tennessee.

The Petitioner alleges that there was an improper transfer of this work from telegrapher employes and that this is part of a general program initiated about July 1960, to shift telegraphers' work to other personnel, which had from "time immemorial" been performed by telegrapher employes.

Twenty-five exhibits are included by the Petitioner purporting to show instructions by Carrier for transfer of said work on the Southern system. We have examined these exhibits in previous claims and have concluded that they did not by themselves show the violations claimed. The same is true of the claim before us.

The parties are here in conflict on the basic question under the general Scope Rule contained in the governing Agreement—that is, whether the work which is claimed has been customarily and traditionally the exclusive assignment of Claimants. The Petitioner claims it has. The Carrier denies this, saying that communications of the kind here involved have always been telephoned by a clerk in the dispatchers' office to a clerk-telegrapher in John Sevier Yard as far back as 1930.

The contentions are therefore in conflict concerning the history of practices and we are without proof to enable us to resolve this conflict in facts.

The claim must therefore be dismissed.

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; and

That there is no evidence that the Agreement has been violated.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of July 1964.