

Award No. 12946

Docket No. TE-11351

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORFOLK SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of The General Committee of The Order of Railroad Telegraphers on the Norfolk Southern Railway that the Carrier violated the agreement between the parties when:

1. On April 7, 1958, it improperly removed G. W. Brantley from his duly assigned position as agent at Walstonburg, North Carolina.
2. It improperly, by such action, caused and permitted Brantley to displace B. H. Whitley from his duly assigned position as swing-relief operator-leverman at Wilson Tower on April 6, 1958, and caused Whitley to displace W. C. Helms, Jr. (temporary occupant) on the agent-operator position at Brickhaven, North Carolina, forcing Helms to the extra list April 11, 1958.
3. It improperly declared the position of agent at Walstonburg, North Carolina to be abolished effective April 5, 1958 at 7:45 A.M.
4. It improperly declared the position of agent-operator at Stantonburg, North Carolina to be abolished effective at 7:45 A.M., April 5, 1958.
5. It improperly bulletined (Bulletin No. 4163) under date of March 24, 1958, a position of agent-operator at Stantonburg-Walstonburg, and improperly assigned L. F. Hales to such position effective April 7, 1958.
6. It improperly suspended and continues to suspend L. F. Hales from his assigned agent-operator position at Stantonburg in requiring him to perform service at Walstonburg beginning April 7, 1958.

That because of such violations the Carrier shall be required to:

1. (a) Restore G. W. Brantley to the position at Walstonburg and compensate him for any wage loss and expenses incurred by reason of his improper removal from that position.

2. (a) Restore all other employes affected to their positions held prior to their improper displacement and compensate them for all wage loss and expenses incurred as a result of such displacements.

3. (a) Restore the agent's position at Walstonburg to a minimum eight-hour daily basis as it existed prior to April 7, 1958.

4. (a) Restore the agent-operator's position at Stantonburg to a minimum eight-hour daily basis as it existed prior to April 7, 1958.

5. (a) Annul or otherwise render void Bulletin No. 4163 dated March 24, 1958 and the assignment made thereunder.

6. (a) Compensate L. F. Hales, his successor and/or substitute, for 3 hours and 35 minutes at the straight time rate for each day suspended from the Stantonburg position while being required to perform service on the Walstonburg position, including time en route.

7. (a) Compensate L. F. Hales, his successor and/or substitute, a minimum of a day's pay at the Walstonburg agent-operator rate of pay for each day required to perform service at Walstonburg agency during the life of this improper Stantonburg-Walstonburg arrangement.

8. (a) Compensate the senior idle operator, extra in preference, for 8 hours' pay at the Walstonburg by the Stantonburg agent during the life of this improper Stantonburg-Walstonburg assignment.

EMPLOYES' STATEMENT OF FACTS: Carrier's main line extends from Norfolk, Virginia to Charlotte, North Carolina, a distance of approximately 385 miles. Walstonburg, North Carolina is 165 miles westward from Norfolk, while Stantonburg, farther on, is 172 miles from Norfolk.

A position of Agent at Walstonburg (formerly Fieldsboro) has been covered by the Telegraphers' Agreement since October 1, 1919. At that time it was classified as Agent-Operator until June 6, 1932, on which date it was reclassified to that of Agent, non-telegraph. It has remained in that classification since. The current Agreement, effective August 1, 1937, (since amended) lists the position as follows:

"Walstonburg A \$72.93 monthly"

The rate of pay has since been adjusted and on April 1, 1958, this position was rated at \$296.90 per month.

A position of Agent-Operator at Stantonburg has been covered by the Telegraphers' Agreement since October 1, 1919. It has continued to be an Agent-Operator's position. The current Agreement, effective August 1, 1937 (since amended) lists the position as follows:

"Stantonburg A O \$.65 hourly"

The rate of pay has since been adjusted and on April 1, 1958 this position was rated at \$2.026 per hour.

Both positions involved have been on an eight-hour daily basis since October 1, 1919.

Illustrative of the inconsistency of the petitioners' position where on one hand they contend the entire action is violative of the agreement, is that on the other hand they proposed—and a memorandum of agreement was negotiated—to allow these dualized agents an automobile mileage allowance in excess of the regularly established six cents per mile, in consideration of these dualized agents using their personally owned automobiles to travel between the dualized agencies under their jurisdiction, and while the allowance specified in the memorandum agreement is a stipulated amount per round trip, the predicate based on miles traversed is in excess of the regularly established automobile allowance in effect on the railroad. This memorandum agreement and the request therefor is attached hereto, marked Carrier's Exhibits "A" and "B". In other words, while petitioners contend on one hand that the dualization is contrary to and violative of the agreement provisions they have on the other hand shown they are agreeable to accepting a higher than the regularly established mileage rate for these dualized agents. Conversely speaking, this actually represents a monetary consideration to these agents for the dualized services to the extent of the excess allowed over and above the regular mileage rate, all of which was proposed by and accepted by the employe representative.

(Exhibits not reproduced.)

OPINION OF BOARD: The issues and the facts herein are substantially similar to those in Award No. 12945 on this property and we deem that decision dispositive of the claim herein.

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 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 9th day of October, 1964.