

Award No. 12948

Docket No. TE-11875

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 July 10, 1958, it improperly removed Mrs. Mildred L. Fish from her duly assigned position as agent at Parkwood, N. C.
2. It improperly declared the position of agent at Parkwood, N. C. to be abolished effective July 10, 1958.
3. It improperly declared the position at Glendon, N. C. to be abolished effective July 10, 1958.
4. It improperly bulletined (Bulletin No. 4198) under date of June 20, 1958 a position of agent at Parkwood-Glendon, and improperly assigned Mr. R. A. Dowd to such position effective July 10, 1958.
5. It improperly suspended and continues to suspend Mr. R. A. Dowd from his agent's position at Glendon in requiring him to perform service at Parkwood, beginning July 10, 1958.

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

1. (a) Restore the agent's position at Parkwood to a minimum eight-hour daily basis as it existed prior to July 10, 1958.
2. (a) Restore the agent's position at Glendon to a minimum eight-hour daily basis as it existed prior to July 10, 1958.
3. (a) Annul or otherwise render void Bulletin No. 4198 and the assignment made thereunder.
4. (a) Compensate R. A. Dowd, his successor and/or substitute,

for four (4) hours and thirty (30) minutes at the straight time rate for each day suspended from the agent's position at Glendon while being required to perform service as agent at Parkwood beginning 60 days prior to the date of this claim; also, for any expense incurred for each of such services, beginning 60 days prior to the date of this claim.

5. (a) Compensate the senior idle employe, extra in preference, a day's pay at the Parkwood applicable rate of pay for each day the Parkwood agency position remains assigned to, and is occupied by the agent at Glendon, beginning 60 days prior to the date of this claim.

EMPLOYEE'S STATEMENT OF FACTS: Carrier's main line extends from Norfolk, Virginia to Charlotte, North Carolina, a distance of approximately 385 miles. Glendon, North Carolina is 290 miles westward from Norfolk, while Parkwood, farther on, is 296 miles distant.

A position of Agent at Glendon has been covered by the Telegraphers' Agreement since October 1, 1919. The current Agreement, effective August 1, 1937, (since amended) lists the position as follows:

"Glendon	A	\$40.43 monthly"
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The rate of pay has since been adjusted and on July 10, 1958, this position was rated at \$229.89 per month.

A position of Agent at Parkwood (formerly Hallison) has been covered by the Telegraphers' Agreement since October 1, 1919. The current Agreement, effective August 1, 1937, (since amended) lists the position as follows:

"Hallison	A	\$40.43 monthly"
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The rate of pay has since been adjusted and on July 10, 1958, this position was rated at \$241.03 per month.

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

The Carrier obtained authority to reduce the agency hours at these two stations by an Order in Docket No. R-4, Sub. 40, June 18, 1958, pursuant to Carrier application filed May 27, 1958, with the North Carolina Utilities Commission which issued the following Order:

"Before the
North Carolina Utilities Commission
In the Matter of

Application by Norfolk Southern Railway Company for Authority to Reduce Hours of Service at Parkwood and Glendon.	}	O R D E R
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By the Commission

By application filed May 27, 1958, Norfolk Southern Railway Company seeks authority to reduce the hours during which the agen-

that the carrier does not have the right to abolish any such listed position without negotiation. Respondent points out that nowhere in the agreement can petitioners cite a rule restricting the right of the carrier to abolish positions when there is no longer any work, or where the volume of work has diminished to the point where it can be taken care of by one employe instead of two employes of the same class, and the action of the carrier is not violative of the agreement so long as any such residual work of the abolished position is assigned to and performed by an employe of the same class subject to the scope of the agreement. (Award 6944).

Illustrative of the petitioner's inconsistent position where on the one hand they contend the entire action herein involved is violative of the agreement, is that on the other hand they proposed—and a memorandum agreement was negotiated—to allow dualized agents an automobile travel mileage allowance in excess of the generally and regularly established six cents per mile applicable to all other employes, 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 regular six cents per mile allowance. In other words, while petitioners contend on one hand that the dualization is contrary to the agreement provisions, they have on the other hand not hesitated in proposing and 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 of the mileage allowance granted them over and above the regular established mileage rate.

(Exhibits not reproduced.)

OPINION OF BOARD: The issues and 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 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 9th day of October, 1964.