

Award No. 13291
Docket No. TE-14423

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago and Illinois Midland Railway, that: Carrier pay Agent-Telegrapher L. A. Link, Petersburg, Illinois, a three (3) hour call for each date May 7 and June 3, 1962 account Section Foreman McNeal, an employee not covered by the parties' Agreement, transmitted a message over the telephone to the operator at Shops, Illinois, outside the assigned hours of Agent Link.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties hereto, effective November 1, 1946, revised and reprinted December 1, 1961, and as otherwise amended. Copies of said Agreement, as prescribed by law, are presumed to be on file with your Board and are, by this reference, made a part hereof.

At pages 43 and 44 of said Agreement are listed the positions existing at Petersburg, Illinois on the effective date of the Agreement. For ready reference they are:

Agents

Petersburg \$1.67

Telegrapher-Clerks

Petersburg\$1.57

It is thus established that as of the effective date of the current Agreement, telegraph (telephone) service employes were employed at Petersburg on an around-the-clock basis. On dates not shown in the record, Carrier discontinued the telegrapher-clerk positions.

The facts of the two (2) claims incorporated into this appeal are not in dispute. See O.R.T. Exhibit 8, wherein the Carrier has detailed, under the captions, "Employes' Facts 'A'" and "Employes' Facts 'B,'" the following: Petersburg, Illinois is a one man agency with hours of assignment 6:00 A. M. to 3:00 P. M., Monday through Friday, Saturday and Sunday rest days. At 3:10 P. M., May 7, 1962, Section Foreman McNeal entered the office at Petersburg, Illinois and

same or similar disputes on the property, backed by years of practical railroading and by long acquiescence therein by the Employes, all as shown in the record, we would now be guilty of having given only lip service in the past to the expression that this Board will not write, alter, amend or strike down rules, should we now sustain these claims."

CONCLUSION

Neither the "scope" rule nor the "train order" rule supports the organization's contentions. The exclusive use of the telephone has not been granted claimant by rule or practice. The request for a 3-hour "copy train orders" allowance to agent-telegrapher Link is clearly without merit.

A denial of the claim is, therefore, respectfully requested.

OPINION OF BOARD: Sometime prior to mid-1962 the Carrier reduced the Agent-Telegrapher position at Petersburg, Illinois from a three shift operation to a single shift operating 6:00 A. M. to 3:00 P. M. Monday through Friday. The section foreman working with maintenance forces based at Petersburg using on-track machines to surface tracks and perform other mainline maintenance work in the area was requested to advise the chief dispatcher as to daily location of his forces for the benefit of train crews using the tracks.

At 4:37 P. M. on May 7, 1962 after the Agent-Telegrapher had left for the day the section foreman telephoned from his office to the operator at Shops Tower, Springfield transmitting the following message:

"EPT

Tamper tied up at North Switch Andrew, working tomorrow between North Switch Andrew and Spur Switch Cantrall."

At 4:15 P. M. on June 3, 1962 he again telephoned from the agents office after closing with the following message:

"EPT

Tamper working tomorrow between Barr and North End Athens Siding Switch."

Agent-Telegrapher Link, then covering the Petersburg office filed a claim for three hours call in pay for each of the above two dates.

The issues raised in this claim are, with one exception so closely parallel to those raised and resolved in our award in TE-12348 that there is no need to reiterate them here.

The one exception arises from difference in fact situation.

The ruling in TE-12348 was that the telegraphers organization had exclusive jurisdiction over messages of the type in dispute despite the fact that the telegraphers position at Kilbourne was no longer in active operation. In the instant case our reasoning is reinforced by the fact that Petersburg did have one shift telegrapher coverage at the time of the claim thus granting

exclusive jurisdiction over the disputed messages when transmitted during the telegraphers off hours.

"We have held many times, however, that station work in one-man stations belongs to the Agent, a position within the scope of the Telegraphers' Agreement. Station work outside the hours assigned to the Agent of a one-man station is also work that belongs to the station agent." (6975, 4392, 5993)

The Organizations claim is sustained.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February 1965.

CARRIER MEMBERS' DISSENT TO AWARD 13291, DOCKET TE-14423

For the reasons set out in our Dissent to Award 13290, we dissent.

/s/ C. H. Manoogian

/s/ R. A. DeRossett

/s/ W. F. Euker

/s/ G. L. Naylor

/s/ W. M. Roberts