

Award No. 13722
Docket No. TE-10805

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(Formerly The Order of Railroad Telegraphers)

PENNSYLVANIA-READING SEASHORE LINES

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Pennsylvania-Reading Seashore Lines, that:

(1) Carrier permitted and/or required Ticket Clerks A-15 on June 27, 1957; A-25 on June 20, 1957; A-18 on June 29, 1957; A-25 and A-18 on July 2, 1957; A-5 on July 3, 1957, and A-18 on July 5, 1957, to telephone Philadelphia and Pittsburgh for Pullman reservations in violation of the Scope of the Telegraphers' Agreement. This work was diverted from 'K' Telegraph Office where employees covered by the Telegraphers' Agreement are employed to handle all messages in connection with Pullman reservations, at Atlantic City, N. J.

(2) Because of this violation, claim is made for eight (8) hours' pay on dates shown above, for senior idle extra employee, and if none available, claim is made for senior idle regular employee for eight (8) hours' pay on dates shown above. Article 1, 3, 10 and 22 invoked in support of claim."

EMPLOYEES' STATEMENT OF FACTS: As noted in the Statement of Claim, this dispute concerns five distinct claims where ticket clerks at Atlantic City, New Jersey performed communication work in violation of the Telegraphers' Agreement. The dispute started with the Carrier's rejection of time claims which had been submitted by Mr. J. J. Leavens, Local Chairman, in behalf of a senior idle employee. Thereafter the following correspondence was exchanged:

"PENNSYLVANIA-READING SEASHORE LINES

Camden, N. J., July 16, 1957.

Mr. J. J. Leavens,
9 South Chester Street
Pleasantville, New Jersey

Dear Sir:

Receipt is acknowledged of your C.T.S. 449s dated June 27, 29,

to consider this claim unless all interested parties are advised of the pendency of this claim including the Clerical Organization; that the applicable Agreement was not violated when the work involved was performed by employees covered by the Clerks' Agreement and that the Claimants are not entitled to the compensation claimed.

It is, therefore, respectfully submitted that the claim is not supported by the applicable Agreement and should be denied, if not dismissed for lack of jurisdiction.

(Exhibits not reproduced).

OPINION OF BOARD: The dispute involved herein was referred to the National Disputes Committee established by Memorandum Agreement dated May 31, 1963, to decide disputes involving interpretations on applications of certain stated provisions of specified National Non-operating Employee Agreements. On April 22, 1965, that Committee rendered the following Findings and Decision (NDC Decision 22):

"FINDINGS: (ART. V) Paragraph 1 (a) of Article V of the August 21, 1954 Agreement provides that—

'All claims or grievances must be presented in writing by or on behalf of the employee involved * * *'

"In its submission to the Third Division, carrier contends that the claim was not filed in behalf of any specifically named individual and as such 'is not a valid claim under Article V of the August 21, 1954 Agreement.' The record does not indicate that such contention was made during handling on the property.

"The National Disputes Committee rules that inasmuch as the carrier did not raise on the property the above contention that the claim did not meet the requirements of Article V, it may not raise such contention before the Third Division.

"DECISION: The carrier waived the contention that the claim did not meet the requirements of Article V by its failure to raise the contention on the property.

"This decision disposes of the issues under Article V of the August 21, 1954 Agreement. The docket is returned to the Third Division, N.R.A.B., for disposition in accordance with Paragraph 8 of the Memorandum Agreement of May 31, 1963."

This dispute arose when ticket clerks at Atlantic City, New Jersey, performed the work of telephoning the Philadelphia and Pittsburgh Ticket Bureaus to secure Pullman reservations for patrons.

The Brotherhood contends that Carrier violated the Scope of the Agreement when it diverted this communications work from the "K" Telegraph Office after it was closed to the ticket clerks, employees not covered by the Agreement. It also takes the position that the handling of Pullman reservations is work traditionally performed by telegraphers.

Carrier denies the claim with the assertion that this communications work in connection with Pullman reservations does not accrue exclusively to the

telegrapher craft under the Scope and that ticket clerks have always used the telephone to secure reservations.

The Scope Rule is of the general type which lists classifications of employees but does not delineate the work of employees covered. Since telegraphers do not have the exclusive right to this work under the Scope, they must prove that it belongs to them through tradition and past practice in accordance with the well-established principle of this Division. The record discloses that, since 1933, ticket clerks in Atlantic City customarily used the telephone to secure Pullman reservations from Philadelphia for patrons. On occasions, they departed from this usual method of obtaining space information. For example, when the telephone lines were busy, the clerks would request the telegrapher to send the necessary message. The work in question was, therefore, not handled exclusively by the employees covered by the Telegraphers' Agreement. Petitioners have thus failed to prove their claim to this work through custom, practice, and tradition.

Our opinion is in accord with Award No. 5416 which involves the same parties and Scope Rule. Award No. 10525 interpreting a similar Scope Rule also supports our conclusion.

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 of the parties was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1965.