

Award No. 13791
Docket No. TE-12883

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

BOSTON AND MAINE RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Boston and Maine Railroad, that:

1. Carrier violated and continues to violate the Agreement between the parties when effective November 17, 1960, it arbitrarily removed from the Agreement, and from the employes covered thereby, the work of operating switches and signals by means of levers from a central point at Dover, New Hampshire, and transferred this work to persons not covered by the Agreement in the Train Dispatchers' office at Boston, Massachusetts.

2. Carrier further violated the Agreement between the parties, when on January 12, 1961, it arbitrarily removed from the Agreement and the employes covered thereby, the remaining work embraced by, and abolished, the positions of, First, Second, Third and Relief Position No. 5, Train Directors at Dover, New Hampshire.

3. Carrier shall restore to the Agreement, all of the above listed work it has removed therefrom and re-establish the positions of Train Directors at Dover, New Hampshire. Commencing at 3:00 P.M., January 12, 1961, and continuing thereafter until this is done, for each and every eight (8) hour shift, Carrier shall compensate the following named employes, plus any other adversely affected employes, to be determined by joint check of the Carrier's records, in the amount equivalent to a day's pay at the rate applicable to the shift and position involved, except in the case of employes on rest days, who shall be compensated an amount equivalent to a day's pay at the time and one-half rate applicable to the shift and position involved. Employes named:

F. L. Lavertu
D. J. Blanchette

C. H. Hamor
H. K. Raybold

offices either in the then location of such machines, or when the machines at Alfred Road ("AR") was moved to Dover and subsequently to Boston.

Moreover, on May 23, 1958, the Company placed in operation an entirely new CTC machine in the dispatcher's office at Boston controlling the territory from Concord, New Hampshire, to White River Junction, Vermont, about seventy miles. No claim was presented or progressed by Petitioner or the employees it represents. This is a clear recognition of the intent of the 1944 amendment and the Hall-Jones interpretation that new CTC in dispatcher's offices may properly be assigned to train dispatchers, as well as a recognition (if that be important) that Boston now substitutes for Dover, having replaced the latter point by consolidation of offices.

The claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier maintained a train dispatcher's office and an interlocking tower in charge of train directors at Dover, New Hampshire. Prior to June 1958, a Centralized Traffic Control machine was located in the Dover train dispatcher's office. After that date it was placed in operation in the Boston train dispatcher's office, and the Dover train dispatcher's office was discontinued. With the installation of the CTC machine in the train dispatcher's office in Boston, Massachusetts by Carrier, the work done at the interlocking tower at Dover was transferred to Boston on November 17, 1960. After automatic gates were installed at crossings, and communications work was given to the General Agent (minor), Carrier abolished the Train Directors' positions at Dover Tower on January 12, 1961.

Organization claims that Carrier violated the Scope Rule, by transferring the control and operation of switches and signals from a central point at Dover to persons in the train dispatcher's office at Boston not covered by the agreement. It further claims that Carrier violated the agreement by arbitrarily removing from the agreement the remaining work done by Train Directors at Dover, and abolishing their positions.

Carrier counters with the argument that the Scope Rule is of a general type which does not delineate the work and although it includes the specific classification of "Train Directors and/or operators of CTC machines and remote control machines" this language does not reserve exclusive rights to this work to Train Directors. It takes the position that Organization must show that this work in the system as a whole is performed by Train Directors but that Organization has failed to prove this is the practice. It further relies on letters of understanding written in 1944 which interprets the Scope Rule to support its position that the train dispatcher's office at Boston is not a new office, but a relocation of the Dover train dispatcher's office. It construes the change in November 1960 as a proper extension of the operation of CTC machines to an additional stretch of track by the dispatcher's office at Boston, and therefore maintains that this work was rightfully assigned to Train Dispatchers.

Although the Agreement was revised in 1950, the language of the Scope Rule was unchanged from the earlier Agreement of 1944. The letters exchanged between Organization and Carrier in 1944 expressed the intent and meaning of the Scope Rule with reference to the responsibility for operation of CTC machines in existing or additional areas. That intent and meaning are applicable to the instant dispute.

In 1944 both Train Directors in Towers and Train Dispatchers in Division Offices operated CTC machines. The meaning and intent of "Train Directors and/or Operators of CTC machines and remote control machines" as established in the correspondence between Carrier and Organization in 1944, was that Train Directors could operate CTC machines but only at locations such as at Dover Tower, which were not Train Dispatchers' offices. Any extensions of this work added to machines already operating in the Train Dispatchers' offices were to be controlled by the Train Dispatchers. The Dover dispatchers' office was one of those specifically recognized in the 1944 correspondence. The relocation of this office from Dover to Boston in 1958 was accomplished without any issue having been raised by Organization at the time. The fact is, therefore, that the new CTC machine placed in operation in the dispatchers' office at Boston in November 1960 was an allowable extension of such work already being performed in an existing Train Dispatchers' office.

We also find that the control and operation of switches and signals were not improperly removed from the responsibility of the Train Directors at Dover. The control and operation of the gates were automated and not assigned to any other class of workers. The remaining communications work was properly assigned to the General Agent (minor), covered by the Agreement.

Thus in the abolishment of the Train Directors positions at Dover Tower, no violation of the Agreement by Carrier was involved.

Award No. 8773, which Organization cited to support its claim, considered a Scope Rule similar to that in the instant case, but there were no letters of understanding as to the intent and meaning of the Scope, and the installation of the CTC machine was the first such by Carrier involved.

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 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 30th day of July 1965.