

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

THE COLORADO AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Colorado and Southern Railway that:

The hourly rate of pay for the position of Agent-Telegrapher at Broomfield, Colorado be increased eleven cents per hour, effective January 15, 1958, in accordance with the provisions of Rule 28 of the parties' Agreement.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective October 1, 1948, including changes and agreed to interpretations as of the reissue date, January 1, 1955, and as amended, including rates of pay effective December 3, 1954.

The record shows, that on or about March 28, 1950, the Railway Express Agency, Inc., filed a petition with the Public Utility Commission of the State of Colorado " * * * to close its express office at Broomfield, Boulder County, Colorado, on April 30, 1950." By order of the Commission permission to close the Express Agency at Broomfield, Colorado was granted the Respondent with the Order being entered on the 2nd day of May, 1950. Attached hereto and made a part hereof is ORT Exhibit No. 1, the Statement and Order of the Commission.

On or about October 3, 1957, the Organization learned that effective with the close of business Tuesday, October 15, 1957, that the station at Lafayette, Colorado, on the Denver-Lyons Line, would be discontinued. Also, that concurrent with the closing of this agency that station accounts covering the transportation work, as well as the work itself, arising at Lafayette, would be assigned to the Agent at Broomfield. On the ground that such additional duties and responsibilities warranted an adjustment in the rate of pay on the position of Agent-Telegrapher at Broomfield, the Employee representative General Chairman W. M. Epstein, did, under date of October 4, 1957 address the following letter to Superintendent G. B. Hoover, Denver, Colorado. We quote:

"I have been advised that effective October 15, 1957 the station at Lafayette will be closed and all the accounts thereafter will be handled by the Agent at Broomfield.

Carrier's Exhibit B). Such request was declined by the Carrier under date of November 22, 1957 (see Carrier's Exhibit C). Under date of March 20, 1958, the General Chairman withdrew his request for a rate adjustment for the position of Agent-Telegrapher at Broomfield, Colorado. (See Carrier's Exhibit D). Under date of April 1, 1958, the petitioning General Chairman, in his file TE-1070, made the instant request that the hourly rate of the Agent-Telegrapher at Broomfield be increased 11 cents per hour retroactive to January 15, 1958, "... ACCOUNT DISCONTINUANCE OF EXPRESS COMMISSIONS AT THAT POINT." (See Carrier's Exhibit E). Such request was declined by the Carrier under date of May 19, 1958 (see Carrier's Exhibit F), reiterated in the Carrier's letter of May 21, 1958, (See Carrier's Exhibit G) and reaffirmed and reemphasized in the Carrier's letter of February 9, 1959 (see Carrier's Exhibit H). (Emphasis ours.)

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves a contention by the Employees that the rate of pay applicable to the position of Agent-Telegrapher at Broomfield, Colorado, should be increased by eleven cents per hour because express commissions were discontinued at that station on May 5, 1950. This contention, based on Rule 28 of the parties' Agreement, was first asserted on March 14, 1958.

The record shows that the parties reached an agreement on rates of pay for all positions, including that of Agent-Telegrapher at Broomfield, which became effective on December 3, 1954, as set out in Rule 38.

This agreement obviously must be presumed to have settled any dispute about rates of pay arising out of circumstances occurring prior to its date. The claim, accordingly, must be denied.

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 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 18th day of March 1966.

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