

Award No. 14438
Docket No. TE-12136

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

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

CHICAGO GREAT WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago Great Western Railway, that:

1. Carrier violated and continues to violate the agreement between the parties when, effective August 22, 1958, it declared the position of Agent-Telegrapher at South Freeport, Illinois abolished and transferred the work to persons not covered by the agreement and to the agent at German Valley, Illinois.

2. Carrier shall be required to restore the position of Agent-Telegrapher at South Freeport, together with the work accruing thereto and fill it in accordance with the applicable rules of the agreement.

3. Carrier shall be required to compensate, commencing on November 24, 1958, and continuing thereafter until the violation is corrected, the senior, idle employee on the seniority district, extra in preference, in the amount of a day's pay (8 hours) on each work day of the position Mondays through Fridays.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and are by this reference made a part hereof.

South Freeport, Illinois is a station on the Eastern Division, Chicago District, of this Carrier about 100 miles west of Chicago.

As shown in Addendum No. 1, Wage Scale, a position of agent-telegrapher under the agreement existed at this station prior to August 22, 1958. This position has existed at this station for more than fifty years. Prior agreements listed additional positions of telegrapher at this station but for several years, it has been a one-man station.

Effective with August 22, 1958, the position of agent-telegrapher at South Freeport was declared abolished by the Carrier and the station said to be closed. The work of the position was distributed among other employees. The

Mr. L. M. Kingsbury, General Chairman
The Order of Railroad Telegraphers
P. O. Box 442
Manning, Iowa

Dear Sir:

This has further reference to exchange of correspondence ending with your letter July 31 relative to your Claim No. HT-1.100.

There appears to be no good purpose in further burdening the record with respect to proper appeal procedure and the time limit rule, inasmuch as the record speaks for itself.

Furthermore, a lengthy discussion as to whether or not a section foreman is precluded under terms of the Telegraphers' Agreement from copying line ups at South Freeport has no pertinency here, inasmuch as no section foreman is headquartered at South Freeport.

As shown in previous correspondence, conductors at South Freeport are functioning in the same manner as at other points on the property insofar as the handling of waybills, IBM cards, wheel reports, etc., are concerned, inasmuch as such work is an inherent part of their regular duties. The Adjustment Boards repeatedly have held that recording of information in connection with cars being handled by road and yard conductors may be required of such conductors and that such work is incidental to their regular duties. On this property, the Adjustment Board, without a referee, has denied claims of various conductors for an additional day's pay account allegedly performing telegraphers' duties, the Division holding that the work in question was incidental to claimants' regular duties. (Awards 17881 and 17994.)

In view of all the foregoing, my decision of July 25 is hereby reaffirmed. Pursuant to your request, will docket this case for discussion at our next conference.

Yours truly,

/s/ D. K. Lawson
Vice President-
Personnel."

OPINION OF BOARD: This is a companion case to that decided by Award 14437, with similar though not precisely the same fact situation.

In this case, however, the Superintendent, in Carrier's first declination of the claim, raised the procedural question of proper filing, contending that the Chief Dispatcher had previously been designated as "the officer of the Carrier authorized to receive" claims in accordance with Rule 23 (a).

This contention, since it was timely raised at the first opportunity, and since it is valid in view of the Carrier's letter of November 6, 1958, must be 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 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of May 1966.