



Award No. 14527

Docket No. TE-12654

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

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

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Western Lines)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Atchison, Topeka & Santa Fe Railway, that:

1. The Carrier violated the Agreement between the parties when, on or about December 15, 1959, it removed the work of operating switches and signals governing the movement of trains heading in and out main line tracks and other tracks at Rowe, New Mexico, from employees covered by the Telegraphers' Agreement and delegated the performance of this work to employees not within its coverage;

2. The Carrier shall be required to restore said work to the scope of the Telegraphers' Agreement to be performed by employees covered thereby; and

3. For each and every eight-hour shift that work previously performed by employees under the Agreement at Rowe, New Mexico, is performed by means of CTC equipment operated by train dispatchers at Las Vegas, New Mexico, the Carrier shall be required to compensate the senior idle extra telegraph service employee in an amount equivalent to a day's pay at the rate applicable to the positions at Rowe, New Mexico, and, if there be no idle extra telegraphers, then the Carrier shall compensate the senior telegraph service employee or employees idle on a rest day in an amount equivalent to a day's pay at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

For many years the Carrier maintained an interlocking plant at Rowe, New Mexico. In this office the Carrier maintained three shifts of telegraphers (levermen) in an around-the-clock service who performed the work of operating switches and signals governing the movement of trains over main line tracks, in and out of sidings, between Rowe and Glorieta, New Mexico.

Dear Sir:

This has reference to your two letters of January 26, 1961, both of which carried your File No. 26-S-161 and requested that the time limit within which you have to appeal from my decisions of May 25, 1960 and September 23, 1960 on your two appeal claims, each of which you agree arose out of the alleged improper transfer of certain work from the Agent at Rowe, New Mexico to the Train Dispatchers at Las Vegas, be extended pending conference following the receipt of awards that are yet to be rendered by the Third Division in two of your appeal claims at Abajo and Isleta, New Mexico.

Since the claim for penalties presented in your appeal claim of March 15, 1960 in behalf of certain unidentified claimant employees was for

‘ * * * each and every eight hour shift that the work previously performed by employees under the Telegraphers’ Agreement at Rowe, New Mexico, is performed by means of the centralized train control machines operated by the train dispatchers at Las Vegas, New Mexico. * * * ’

and included the Agent’s eight-hour tour of duty at Rowe, your subsequent appeal claim of August 3, 1960 which also claimed penalties in behalf of some unidentified claimants for:

‘ * * * each and every eight hour shift that the work previously performed by the Agent, under the Telegraphers’ Agreement at Rowe, New Mexico, is performed by means of the centralized traffic control operated by the train dispatchers at Las Vegas * * * ’

is without question a duplication of the claim for penalties that was advanced in your appeal claim of March 15, 1960, at least insofar as concerns the Agent’s former 8-hour shift, and I am therefore unwilling to grant the request contained in your two letters of January 26, 1961 so long as you refuse to recognize and withdraw the duplicate claim for penalties that was the subject matter of your appeal claim of August 3, 1960.

Yours truly,

/s/ L. D. Comer”

OPINION OF BOARD: This is a duplication of the claim covered in Award 14461. We concur in that decision, and this matter will accordingly be remanded to the parties for negotiation and such ensuing procedures as may be required.

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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board does not have jurisdiction over the dispute involved herein.

AWARD

Case remanded in conformity with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1966.