

Award No. 14839
Docket No. TE-13853

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the provisions of the Telegraphers' Agreement when effective Friday, March 31, 1961, they removed the work being performed by claimant, Miss M. V. Moore, agent-telegrapher, Tyner, Tennessee, and placed these duties and work on the agent at Chattanooga, Tennessee, an agency position that is not covered by the Telegraphers' Agreement, and, subsequent to Friday, March 31, 1961, having all work formerly performed at Tyner, Tennessee, performed at Chattanooga, Tennessee, by an employe not covered by the Telegraphers' Agreement. Therefore this is a continuing violation.

2. Carrier shall compensate claimant, Miss M. V. Moore, agent-telegrapher, Tyner, Tennessee, by paying her at the pro rata rate of \$2.52 per hour for all work performed during the assigned hours of her position of agent-telegrapher, Tyner, Tennessee, and for all other work performed before and after her assigned hours, at the rate allowed under the Agreement, plus any expenses incurred by her for travel allowance and lodging as a result of the violation herein stated, for all days subsequent to March 31, 1961, until the position of agent-telegrapher, Tyner, Tennessee, is restored.

3. That claimants W. C. Lumpkin, J. W. Backers, B. G. Burkhalter, A. D. Dawson, J. D. Fields, and B. H. Newby, employes who were adversely affected by the action of the Carrier in abolishing the position of agent-telegrapher, Tyner, Tennessee, shall also be compensated by payment of any and all wages lost, plus any expenses incurred for travel pay and lodging, as a result of the violation herein stated, for all days subsequent to March 31, 1961, until the position of agent-telegrapher, Tyner, Tennessee, is restored.

4. Further, that the Carrier shall restore the position of agent-telegrapher, Tyner, Tennessee, to the status it had prior to March 31, 1961.

party to the other of desire to revise or modify in accordance with the provisions of the Railway Labor Act."

PARAGRAPH FOLLOWING TABLE OF RATES.

PAGE 100 OF PRINTED AGREEMENT

"The listing of positions, with locations and rates of pay, is for the purpose of showing the established rates of pay of existing positions effective as of September 1, 1949 and shall not be construed to prevent the establishment of additional positions or the abolishment of existing positions at any time in accordance with the terms and provisions of this agreement."

OPINION OF BOARD: Pursuant to permission from the Tennessee Public Service Commission, Carrier discontinued its agency station at Tyner, Tennessee, and operated it as a prepay station for carload shipments only, with the agency at Chattanooga designated as governing Agency. The position of Agent-Telegrapher, occupied by Claimant M. V. Moore, was abolished and the station building was subsequently dismantled.

At the time the agency was discontinued the carloads received at Tyner amounted to slightly more than one per week, cars forwarded slightly more than one per work day, and less-than-carload freight was negligible. The clerical work involved in handling this freight was transferred to clerical employees at Chattanooga.

The Employees argued that agency work covered by the agreement was transferred to employees not covered by the agreement. The work involved was clerical in nature and not reserved to the Organization by virtue of the Scope Rule. The Employees made no showing that the work was theirs by history, custom or tradition. In fact, such work has usually been assigned to telegraphers to fill out their tours of duty and it is well settled that telegraphers enjoy no right to the performance of clerical work. See Awards 6363, 12757 and awards therein cited. Moreover, see Award 13243 (Engelstein), involving a similar dispute between the same parties, in which the principles stated above were held applicable.

The Organization cited two Awards, 14437 and 14591, as being pertinent. Award 14437 reasserted the principle originally stated in Award 388 that where the hours of two agencies were reduced and one agent did the work of both, the other agent was improperly laid off because his agency had not been abolished. In our case the agency had not only been abolished but the station house had been dismantled and there was no evidence that any work was performed at Tyner.

The other Award, 14591, involved work which concededly belonged to the Organization. (But see the dissent which disputes this.) In our case, this was not so.

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 13th day of October 1966.