

Award No. 14872
Docket No. TE-14135

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

NEW YORK CENTRAL RAILROAD COMPANY
(Western District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central System (Western District), that:

1. The Carrier violated the terms of the Agreement when on December 12, 1961, it declared that the following positions were abolished:

1st shift Operator-Leverman, Elyria Junction Tower, Ohio
2nd shift Operator-Leverman, Elyria Junction Tower
3rd shift Operator-Leverman, Elyria Junction Tower
Relief Position Operator-Leverman, Elyria Junction Tower

resulting in the improper displacement of the employees entitled to aforesaid positions.

2. The Carrier shall compensate the following named employees, H. L. Williams, J. Sklenar, L. C. Nelson, and S. A. Smith, who were improperly displaced from their positions by the unilateral abolishment of their positions as shown in paragraph 1 hereof. And such employees who were displaced when the above named employees exercised their displacement rights as provided in Article 13 of the Agreement and continuing thereafter from the date of December 12, 1961, until the violation is corrected.

3. The Carrier shall compensate the four senior idle employees, extra in preference, on Seniority District No. 4 each in the amount of a day's pay beginning on December 12, 1961 and continuing thereafter until the violation is corrected.

4. The right is reserved to examine the Carrier's records to determine the amount due each claimant.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1958 there were located in Elyria Yard Office three positions around the clock plus a relief assignment. On or about September 1958 these positions were abolished and the duties and responsibilities were transferred to the incumbents of the Operator-Leverman positions at Elyria Junction Tower. As of December 12, 1961, the following employees held the negotiated positions at Elyria Junction Tower:

H. L. Williams	First shift
J. Sklenar	Second shift
L. C. Nelson	Third shift
S. A. Smith	Relief man

The following items of work were required of the three positions in Elyria Junction Tower before December 12, 1961:

1. Give the Yardmaster information of cars ready at South Lorain, Ohio. This report was received by the third shift and forwarded on the first shift hours.
2. Call the Chief Train Dispatcher at Cleveland for consists on westbound trains from Youngstown, Ohio and on eastbound LE&P crews, passing such information to the Crew Dispatcher, Car Inspectors, Yardmasters, Trainmasters, or whoever required such information.
3. Give information to the Cleveland Chief Train Dispatcher and Toledo Dispatchers on all LE&P crews arriving, trains east and west that pick up or set off at Elyria and LE&P crews leaving the yards.
4. Handle all Norwalk locals — train orders, clearance forms, and motor car permits or any messages in the performance of their duty.
5. Copy CL-1 DCR and Situation reports from South Lorain, Ohio.
6. Handle switches and signals for the B&O transfer tracks which are now handled by employees not covered by our Agreement.

On December 12, 1961, the Carrier declared abolished the positions of first, second, and third shift Operator-Leverman, as well as the Relief position, at Elyria Junction Tower. After this date the Carrier required train crews, yardmasters, yard clerks, roundhouse foremen, and all other employees in and near Elyria Yards to perform the work that had formerly been performed by the three shifts at Elyria Junction Tower.

Claim was made in behalf of the incumbents of the three positions as well as the relief position and also in favor of four senior idle employees, extra in preference on Seniority District No. 4 for a day's pay beginning December 12, 1961, and continuing until the violation is corrected.

In conjunction with the completion of the C.T.C. System, the Operators' positions at the above locations were abolished. Elyria Junction Tower was discontinued and the positions abolished on December 12, 1961. As a result of the abolishment of the positions at Elyria Jct. the Organization filed and progressed claims which are now subject of the instant dispute.

No claims were presented as a result of the discontinuance of the positions at the other locations mentioned above.

OPINION OF BOARD: Carrier abolished 1st, 2nd and 3rd shift and relief position Operator-Leverman at the Elyria Junction Tower resulting in displacement of position holders and employees Jr. to position holders. The Organization asks compensation for displaced employees plus four idle employees (not named). Claimants allege that subsequent to the abolishment of these positions Carrier used train crews, roundhouse foremen and other employees in or near Elyria Yard to perform work of the displaced employees.

The record contains abundant allegations describing duties and work remaining to be performed by Claimants subsequent to abolishment of the aforesaid positions. However, in the absence of evidence tending to prove these allegations, they (the allegations) are merely conclusions.

The burden of proving that substantial work remains to be performed subsequent to abolishment of a position is on the Claimant. In this matter, Claimants failed to carry out their burden of proof. The record is void of any proof that there had been a transfer of exclusive Telegrapher's duties to another Craft subsequent to abolishment of said positions.

For the foregoing reason, this Claim 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 21st day of October 1966.

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