

Award No. 15534
Docket No. TE-14511

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri-Kansas-Texas Railroad, that:

1. Carrier failed and refused to apply the proper rate of pay at Hominy, Oklahoma, beginning December 30, 1962, after it consolidated the Agent-Yardmaster-Telegrapher's position at Osage, Oklahoma, with the Agent-Telegrapher's position at Hominy, Oklahoma.

2. Carrier shall be required to compensate the occupant (or occupants) of the Hominy position the difference between the Hominy rate and the Osage rate effective December 30, 1962, and thereafter; and that the higher rate shall be declared the established rate of the Agent-Telegrapher's position at Hominy, Oklahoma.

EMPLOYEES' STATEMENT OF FACTS: Prior to December 30, 1962, there existed on the Carrier's Northern Division, extending from Kansas City, Missouri to Oklahoma City, Oklahoma, the involved positions stated in the foregoing claim. Hominy, Oklahoma (population 2800) is located 236 miles south of Kansas City. Osage (population 500) is 9.2 miles beyond, situated on the north bank of the bridged Arkansas River. (See ORT Exhibit A.)

Early in 1960, the Carrier filed an application with the Interstate Commerce Commission, identified as Finance Docket No. 21110, for permission to abandon its trackage between Mile Post 243.79 (1.41 miles north of Osage) and Mile Post 249.64 (4.44 miles south of Osage), approximately 5.85 miles. Such abandonment was occasioned by the projected flooding of the Arkansas River following the construction of the federal Keystone Dam and Reservoir and resulting inundation of Carrier's trackage and bridge sites for which the Carrier was reimbursed by the federal government. The application was granted, and as the construction advanced toward completion the Carrier proceeded with the proposed abandonment of the trackage specified.

At Osage there existed an Agent-Yardmaster-Telegrapher's position rated at \$596.24 per month and at Hominy an Agent-Telegrapher's position with

No conference has been held by the parties to consider, and, if possible, decide this alleged unadjusted dispute in accordance with the clear, specific and mandatory requirements of Section 2, Second, of the amended Railway Labor Act, and Circular No. 1 of the National Railroad Adjustment Board, dated October 10, 1934.

Carrier's Exhibit B attached is copy of correspondence exchanged by the parties in handling the matter involved on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: The Claim in this case is contested by the Carrier on the grounds that no conference has been held by the parties to consider, and, if possible, decide this dispute in accordance with the requirements of Section 2, Second, of the Amended Railway Act, and Circular No. 1 of the National Railroad Adjustment Board, dated October 10, 1934. This being the case, Carrier contends that this Board does not have jurisdiction in the matter before us.

We agree with Carrier's position that a conference is mandatory in accord with the above cited Act and Circular and must, therefore, dismiss the Claim. [Awards 13959 (Dorsey), 14054 (Dorsey)]

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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April 1967.