

Award No. 15833
Docket No. TE-14640

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

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

GRAND TRUNK WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Grand Trunk Western Railroad Company, that:

1. Carrier violated and continues to violate the terms of the parties' Agreement by requiring and/or permitting employes not covered thereby (clerks) to perform work thereunder (teletype) at Henry Street, Muskegon, Michigan.

2. Carrier shall be required to pay 8 hours to the senior idle extra telegrapher at pro rata rate or, there being no extra, to senior regularly assigned telegrapher on his rest day at punitive rate, commencing September 27, 1962, and continuing each day thereafter that the violation occurs, until corrected.

EMPLOYES' STATEMENT OF FACTS: The facts in this case, the basis for the claim, the position of the disputant parties, and area of disagreement between them, is disclosed in the file record of the correspondence exchanged in the property handling of the dispute.

Said correspondence is hereinbelow reproduced, with a prefatory heading to each letter showing the name and title of sender and addressee and date thereof. Each letter is given an identification number for reference.

NO. 1.

DISTRICT CHAIRMAN F. I. FISHER TO
SUPERINTENDENT E. T. ROSE, NOVEMBER 24, 1962

"We hereby file claim for the Idle Senior Telegrapher for 8 hours' pay at Henry St., Muskegon for each day trains number 412 and 413 operate in and out of Muskegon for which a consist is sent by teletype from Durand covering these trains because the Yard clerks are taking this information off this Teletype machine in violation of our current agreement. This to be a continuing claim until such time as this violation is corrected.

Dear Sir:

Referring to conference which Mr. W. W. Byam held with you on March 14 with regard to Telegrapher claims for September 27, 1962 and subsequent dates based on employees other than those covered by the Telegraphers' Working Agreement receiving information via teletype at Henry Street, Muskegon. These claims had been declined for reasons set forth in my February 1, 1963 letter to you.

In my February 1 letter I pointed out that a clerical employee simply tears the typed consist report off the teletype machine. At the March 14 conference you indicated that the clerical employee might also be turning the teletype machine on and off. Subsequent to the conference, this feature was investigated, and I find that the clerk does not turn the teletype machine on and off. The machine goes on automatically when a message comes in and shuts off automatically when the message has ended, and this is to inform you that there is no change in my declination previously mentioned.

Yours very truly,

/s/ H. A. Sanders"

On June 17, 1963, the General Chairman wrote in reference to exchange of correspondence and conferences held in respect to the operation of Teletype Machines at Henry Street, Muskegon, in part as follows:

"Our position is that any employee performing any work or services on a teletype machine is infringing on our jurisdictional rights even to the extent of tearing consists, messages, etc., off these machines."

(Exhibits not reproduced.)

OPINION OF BOARD: The essential facts in this dispute are not in issue. Since 1950, a teletype machine has been in operation in Carrier's yard office at Muskegon, Michigan, where both telegraphers and clerks are located. The teletype machine is used to send and receive communications concerning the Carrier's operations. Prior to 1960, two telegraphers were assigned to this office.

The second trick operator position was abolished on October 7, 1960, leaving only one telegrapher employed there with assigned hours from 9:00 A.M. to 6:00 P.M. daily. Carrier operates a train between Durand and Muskegon daily except Saturdays, which usually leaves Durand after 6:00 P.M. Carrier requires that a consist report be sent by teletype from Durand to Muskegon. The telegrapher on duty at Durand transmits such reports by teletype, which are automatically printed on the printer-receiver at Muskegon. Since the abolishment of the second trick operator position at Muskegon in 1960, the yard clerk on duty has detached the printed report from the machine and made necessary records, a procedure formerly followed by the second shift operator before that position was abolished. Petitioner contends that Rules 1 and 32 of the Agreement reserve to its members all aspects of handling communication work by means of teletype equipment, except those specifically enumerated in Rule 32, and that the disputed work here involved belongs exclusively to telegrapher.

Initially, Carrier requests that the Board dismiss the claim for lack of jurisdiction on the basis that the claim presented to the Board differs from that which was handled on the property. Although some minor change has been made as to claimants from that presented on the property, such change does not in any way affect the substance of the claim nor enlarge upon it. Awards 14246, 14877 and 15444.

Carrier also takes the position that the claim does not comply with the requirements of Article V, Section 1(c), of the National Agreement of August 21, 1954, which has been incorporated in Rule 30 of the controlling agreement. It is now well established that identification of claimants by means other than specific names is satisfactory if such claimants are readily identifiable. Awards 14019, 14088, 14359 and others. Here, claimants are adequately identified as the incumbents of specific positions named in paragraph (2) of the claim and prior awards cited by Carrier are clearly distinguishable.

As to the merits of the dispute, the parties primarily agree that the issue to be determined is whether the work of detaching consist reports from the printer-receiver at Muskegon is part of the operation of the teletype machine and, consequently, work reserved to telegraphers under Rule 32 of the Teletype Service Memorandum of Agreement. Article I of said rule provides as follows:

"Printing telegraph machines or similar devices used for transmitting and receiving communications of record, either or both, hereinafter referred to as machines as installed at locations shown on the attached Exhibit A and made a part of this agreement and such other similar machines as may be installed in Telegraph Offices shall be operated by employees represented by the Order of Railroad Telegraphers, except as provided in paragraph 'c' of this Article." (Emphasis ours.)

Paragraph "c" of Article I contains particular exceptions from coverage under Rule 32 which are not applicable in the instant case. Petitioner contends that Carrier is seeking to add another exception to Rule 32 in this dispute. However, the record reflects Carrier's position to be that the disputed work is not part of the operation of the machine, and merely an incidental clerical chore.

The actual transmission of reports from Durand automatically turns on the teletype machine at Muskegon, which is left in operating position by the first shift telegrapher at the end of his shift. The machine types up the message on the printer-receiver, and, when completed, the machine is automatically turned off. The printed copy then is torn off a roll of paper after the machine has ceased to operate. No evidence was offered concerning the need for anyone to monitor the machine while operating automatically.

Petitioner's position is bottomed upon the premise that the remaining work to be performed following the automatic transmission of a message by the teletype machine is part of the operation of said machine. We cannot accept this premise, as no "operator" functions are involved in tearing off the recorded messages while the machine is turned off. Neither the Scope Rule or Rule 32 of the Agreement requires the Carrier to assign a telegrapher to the second trick for the sole purpose of tearing off messages and deliv-

ering them to others, when such messages are automatically transmitted from another location. No operational duties or functions are involved. Awards 14184 and 14969. Accordingly, the 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 Employee involved in this dispute are respectively Carrier and Employee 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 is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1967.