



Award No. 16501
Docket No. TE-15370

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

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

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952, Scope Rule 1, Rule 4 (d), Rule 38, etc., by arbitrarily and unilaterally without conference and agreement, consolidating the 4 positions in "Q" office, DeQuincy, Louisiana, with Line Seniority beginning October 10, 1963.

2. The Carrier shall compensate Mr. P. F. Savoy, Manager, who was assigned hours 8 A. M. to 4 P. M., Monday through Friday (rest days Saturday and Sunday), for all time worked outside of these hours at punitive time of \$4.1892 per hour and expenses necessary thereto, and any time lost working other positions at the regular rate of \$2.7928 per hour, beginning October 10, 1963 and continuing thereafter until the position is restored or otherwise mutually agreed to between the Carrier and the Organization.

3. The Carrier shall compensate Mr. M. C. Cates, Assistant Manager, who was assigned hours 4 P. M. to 12 Midnight, Wednesday through Sunday (rest days Monday and Tuesday), for all time worked outside of those hours at punitive time of \$4.0954 per hour and necessary expenses thereto. All time lost working other positions at the regular rate of \$2.7303 per hour, beginning October 10, 1963 and continuing thereafter until the position is restored or otherwise mutually agreed to between the Carrier and the Organization.

4. The Carrier shall compensate Mr. R. D. Strong, Night Chief, who was assigned hours 12:01 A. M. to 8 A. M., Sunday through Thursday (rest days Friday and Saturday), for all time worked outside these hours at punitive time of \$4.0954 per hour and necessary expenses thereto. All time lost working other positions at the regular rate of \$2.7303 per hour, beginning October 10, 1963 and continuing

thereafter until the position is restored or otherwise mutually agreed to between the Carrier and the Organization.

5. The Carrier shall compensate Mrs. L. W. Rice, Swing Telegrapher, who was assigned the manager's position on Friday and Saturday (rest days Wednesday and Thursday) for all time worked outside the hours of the above named positions at punitive rate. Punitive rate for all time work on rest days of Wednesday and Thursday. Regular rate for all time lost while working other positions, and necessary expenses thereto, beginning October 10, 1963 and continuing thereafter until the position is restored or otherwise mutually agreed to between the Carrier and the Organization.

EMPLOYEES' STATEMENT OF CLAIM: Q Office, DeQuincy, Louisiana, is located on the DeQuincy Division. Prior to October 10, 1963, there was continuous service. Q Office is designated by the Agreement as within the Relay Seniority District, which is separate and distinct from the Line Seniority District. At this same location, although in another office, was a negotiated Star Agent position assigned to the DeQuincy Line Seniority roster. These two offices and positions were distinctly segregated by Agreement between the parties.

On May 11, 1963, the Carrier began removing portions of the equipment in Q Office and installing the equipment in the Line Seniority Office at Kinder, Louisiana. A protest was lodged with the Carrier that it would be a violation of the Agreement to interlock the Relay and Line Seniority positions at DeQuincy, and that the matter was negotiable under the Agreement.

On October 10, 1963, Carrier reclassified the Star Agent position, a Line Seniority position, to that of Star Agent Telegrapher, and interlocked this position with the Manager's position in Q Office, a Relay Seniority position. Carrier also declared abolished the Relay positions and issued Line Seniority bulletins for a second shift position, a third shift position, and a swing position, relieving the Agent-Telegrapher on Sunday. All of this was unilaterally done by the Carrier.

Claim was instituted on the basis that the position in Q Office were Relay Seniority, whereas the Agent's position was Line Seniority, and the Carrier could not unilaterally interlock the two Seniority Districts without mutual agreement.

The claim was appealed to the highest officer designated by the Carrier, and declined by him.

CARRIER'S STATEMENT OF FACTS:

1. This dispute involves the application of an Agreement between the Missouri Pacific Railroad Company and the employees thereof on the Gulf District represented by The Order of Railroad Telegraphers which became effective March 1, 1952, copies of which are on file with your Board. The Agreement is by reference made a part of Carrier's submission.

2. This dispute resulted from the Carrier's elimination of the Q Relay Office at DeQuincy, Louisiana, DeQuincy Division, effective October 9, 1963.

and L. W. Rice for time lost working other positions, beginning October 10, 1963 until positions at Q office are restored:

In your letter dated February 10, 1964 you state:

'You are fully aware of the fact that the work in Q Office, DeQuincy remains the same as that prior to October 10, 1963. . . .'

This statement is incorrect.

You were advised during conference that the relaying of messages at DeQuincy has been entirely eliminated, and our further investigation into this matter reveals that the switch board has been removed from the office formerly known as Q Office. DeQuincy Division telegraphers now assigned at DeQuincy use a teletype machine in handling communications originating and terminating at DeQuincy proper. The division telegraphers are not relaying messages of others. The DeQuincy Division telegraphers at DeQuincy operate the teletype machine the same as other division telegraphers in line telegraph offices where a teletype machine is located.

This information is being furnished you in order to set the record straight.

Yours truly,

/s/ B. W. Smith"

19. The Employees have refused to accept the facts in this dispute, and in doing so are contending that Relay Telegraphers have an exclusive right to handle train orders as opposed to Division Telegraphers even in the face of practice to the contrary. There has never been any contention that Relay District telegrapher positions should be established at way stations instead of Division telegrapher positions which in itself is recognition that relay telegraphers are primarily for relay work and when relay work disappears the relay positions must follow suit.

OPINION OF BOARD: Prior to October 1963 Carrier's Q office, DeQuincy, Louisiana, designated in the parties Agreement as within the Relay Seniority District, handled relaying of telegraph messages. By October 1963, the Carrier had equipped each station in the territory with Direct Circuits for contact with GC office in Houston. Carrier then declared the Q office was no longer needed as a relay point, removed relay equipment, abolished relay positions at that location, and put out bulletins for telegraphers under the Line Seniority roster to handle remaining local messages and train orders. At the same time Carrier reclassified a Star Agent position on the Line Seniority roster to that of Star Agent Telegrapher.

Organization claims that the Relay Seniority District is separate and distinct from the Line Seniority District under the Agreement between the parties. It argues that since Q office positions were Relay Seniority and agents' positions were Line Seniority the Carrier could not unilaterally interlock the two seniority districts without mutual consent. To do so it asserted would

violate Rule 4 (d) by requiring work at a less favorable rate, and Rule 18 (c) by changing a seniority district without agreement of the parties.

Carrier claims the right to abolish unnecessary positions, without prior agreement of the Organization. This it asserts was what occurred in the instant case and thus was not violative of any provisions of the parties' Agreement. It concludes that the elimination of the relay work justified the performance of remaining tasks by telegraphers on Line Seniority.

It is clear in the parties Agreement that Carrier has the right to abolish positions without the prior consent of the Organization. In this case the Carrier had improved the method of transmitting messages directly to Houston; had taken away the equipment formerly used in relay work, and had done away with the need for employees to do relay work. It acted within its contractual authority in abolishing the relay positions.

The essential question is whether Carrier had the right to unilaterally assign the remaining work of handling local messages and train orders to employees on the Line Seniority District roster when this work had formerly been done by employees in the Relay Seniority District.

We are unconvinced by Organization's arguments that Carrier violated the parties' Agreement. There is no evidence that the Scope Rule was violated. All work under examination was to be performed by employees covered by the Telegraphers' Agreement. Furthermore there is nothing in the agreement reserving relaying of local messages and train orders exclusively to employees on the Relay District roster. Similarly we find no violation of Rule 38 which merely lists rates of pay and classifications, which this Board has held is not intended to guarantee the perpetuation of the positions listed therein.

Turning to Organization's allegation of a violation of Rule 4 (d) we find that Carrier is required to obtain mutual agreement upon changes in classification or changes in work when such changes would result in establishing less favorable rates of pay or conditions of employment than are established by the parties' Agreement. In the instant situation the change involved was the elimination of relay tasks, leaving the handling of local messages and train orders as the work to be performed. We are convinced that Carrier provided the appropriate conditions of employment at the appropriate rates of pay for the work involved. Payment at Relay Position rates was not appropriate since the work did not involve relaying messages. The conditions and rates of pay were as required by the parties' Agreement for the tasks performed and there has been no showing that they were "less favorable." Accordingly the Carrier was under no obligation to obtain mutual agreement for the changes involved.

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 25th day of July 1968.