

**Award No. 16686**  
**Docket No. TE-15437**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Paul C. Dugan, 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 Missouri Pacific Railroad, that:

1. Carrier violated the Agreement between the parties when it allegedly abolished positions at Falls City, Nebraska, in the Relay Seniority District and established positions at the same city on the Omaha Seniority District, but in reality changed seniority districts by transferring work from the one district to the other.
2. Carrier shall compensate W. E. Magden, R. F. Saal, K. R. Brown and R. W. Fisher, 8 hours' pay each day beginning with the first date following the abolishment of their established position at Falls City, at the negotiated rate of pay for each such position.
3. On any day any of the above named claimants is not available the claim is for the senior idle telegrapher, extra preferred, on the Relay District.
4. This is a continuous claim beginning with the first date following the alleged abolishment until such time the position is re-established.

**EMPLOYEES' STATEMENT OF FACTS:** The Agreement in effect dated September 1, 1949, with wage schedule effective February 1, 1951, lists at page 38 the positions of Manager-Leverman, Night Chief-Leverman, Late Night Chief-Leverman and Telegraphers, on the Relay District at Falls City. As of December 5, 1963, the following positions were held by the following employees:

	<b>Position Declared Abolished</b>
Manager-Leverman - R. F. Saal	12-17-63
Night Chief-Leverman - K. R. Brown	12-16-63
Late Night Chief-Leverman - W. E. Magden	12-16-63
Relief Position - R. W. Fisher	12-17-63

After reviewing your letter of October 21, we do not find anything different than what was contained in your letter of appeal to this office dated January 29, 1964. We do not understand your reference to the qualifications of R. F. Saal. We cannot see that his qualifications or lack thereof has anything to do with this case.

Rule 11 (a-2), referred to by you, is also not pertinent here as we have not in any manner changed any of the seniority districts.

There exists no basis for changing the decision given you declining these claims.

Yours truly,

/s/ B. W. Smith"

**OPINION OF BOARD:** Petitioners herein contend that Carrier violated the Agreement when it transferred work for relay seniority district to the road seniority district (Omaha district) by unilaterally removing three telegraphers in Falls City, Nebraska and creating two new positions at said city.

Rule 11 (a-2), which petitioners allege Carrier violated in this instance, provides as follows:

"Seniority rights of employees shall extend over the districts as established as of January 1, 1940, and the seniority districts shall not be subject to change except by mutual agreement by the parties to this Agreement."

Carrier closed its relay office at Falls City, Nebraska, effective December 17, 1963 and abolished the three positions of telegrapher-leverman. The Carrier then established two (2nd and 3rd trick) telegrapher-clerk positions at the Falls City, Nebraska depot and reclassified the Star Agent position at said depot to Agent-telegrapher, effective December 17, 1963.

Petitioners claim that the work of the jobs abolished remain in the relay seniority district because the work of the abolished positions remained to be performed and said work was not discontinued; that the Carrier could not unilaterally transfer the positions involved to the road district of the Omaha district without agreement; that Carrier cannot unilaterally change seniority districts which thereby take away an employee's seniority rights acquired under the Agreement.

Carrier rests its defense to this claim upon the premises that when it closed the relay office in question at Falls City, Nebraska, it discontinued all relay and related work formerly performed at this location because of technological advances and improved equipment when it installed automatic interlocking equipment; that the Organization violated Article V, Section 1 (a) of the August 21, 1954 Agreement when it failed to name the claimant in Item 3 of the Statement of Claim; that there wasn't a transfer of relay work to the road division and there has been no change in the respective seniority districts.

The Organization, in its oral panel discussion before this Board, vigorously contended that inasmuch as the Carrier, in its ex parte submission, admits that the duties of a Relay Telegrapher overlaps with the duties of a Division Telegrapher because either may be required to handle train orders, then

the Organization sustained its burden of proof of showing that there was a transfer of work in regard to the handling of train orders and therefore a violation of Rule 11 (a-2) of the Agreement.

This Board was confronted with a similar issue in Award No. 16501. The Board in said Award stated:

"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 to train orders exclusively to employees on the Relay District roster. . . ."

Inasmuch as we feel that said Award No. 16501 is controlling in this matter, and not finding it palpably erroneous, we must deny the claim.

**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 28th day of October 1968.