



Award No. 16749
Docket No. TE-15376

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 (Gulf District) that:

1. The Carrier is in violation of the Telegraphers' Agreement dated March 1, 1952, and particularly Scope Rule 1, when beginning October 10, 1963 it turned over to C. D. Howard, telephone and telegraph maintainer, an outsider, the duties of wire chief at Kinder, Louisiana, which includes such wire testing by switchboard, volt meter or radar machine, etc., instead of assigning these duties to employes covered by the Telegraphers' Agreement which covers such duties.

2. The Carrier shall, beginning October 10, 1963, compensate each of the senior idle telegraphers, extra in preference, on the Relay Seniority List, for each calendar day of twenty-four hours, eight hours each at the prevailing rate of such position, for example, the "Q" Office, DeQuincy, Louisiana prior to October 10, 1963 and continuing thereafter until such positions are established and the work as mentioned in (1) above is assigned to telegraphers on the Relay Seniority List.

EMPLOYEES' STATEMENT OF FACTS: Prior to October 10, 1963, there were three wire chief positions at DeQuincy, Louisiana. They were assigned a specific territory extending from Beaumont, Texas, to Baton Rouge, Louisiana; from Lake Charles to Alexandria, Louisiana; and on the Orange and New Iberia branches. Their duties in this respect embraced testing and locating wire trouble within this territory and directing the linemen to the specific point to correct the same. Additionally, they were charged with the duty of adjusting and regulating repeater equipment on both telephone and Carrier and teletype circuits, which at that time were stationed at "Q" Office, DeQuincy.

On May 11, 1963, the Carrier began removing equipment from "Q" Office, DeQuincy, and putting it in the Kinder, La. Line Office in a piece-meal method.

that both division telegraphers and maintainers used the same switchboard for trouble shooting without regard to size or number of patches that could be made.

8. In denying the claim on the property, the Carrier pointed out to the General Chairman that the claim was invalid in the first instance because the claimants were not properly identified, being filed in behalf of "each of the senior idle telegraphers, extra in preference, on the Relay Seniority List, for each calendar day," evidently meaning that all idle telegraphers in the relay district will receive eight hours' pay each calendar day beginning October 10, 1963, and continuing until the Employees grow weary. Not only is the claimant not properly identified, the amount claimed is less than definite in view of the fact that the claim is predicated on work performed by C. D. Howard at Kinder, who is but one man assigned an eight hour day. In addition to the foregoing, the Carrier pointed out the following:

(a) All so-called wire chief duties were assigned to the relay telegraphers in "GC" Office at Houston subsequent to the abolishment of the relay positions in "Q" Office at DeQuincy.

(b) The radar fault finder, which the General Chairman stated was used by the maintainer at Kinder, has been located at Houston since purchased in 1960, and was not being used by the maintainer at Kinder to perform any type of work. The radar fault finder at Houston was installed by maintainers and relay telegraphers were taught by maintainers how to use the machine to locate wire trouble; therefore, it would be unreasonable to take a position that maintainers could not use the machine to perform their function in trouble shooting.

(c) The volt meter that was attached to the switchboard was used by the maintainer to perform the duties attaching to a maintainer's position. The volt meter was used by the maintainer during the period of installation for trouble shooting.

(d) Relay telegraphers do not have the exclusive right to the use of any equipment used in the maintenance of communication systems, be it radar fault finders, volt meters or duplex sets and repeaters.

See Carrier's Exhibits E and F.

(Exhibits not reproduced.)

OPINION OF BOARD: When Carrier eliminated a relay office at DeQuincy, Louisiana, it enlarged the switchboard facilities at Kinder, Louisiana which was a way station for circuits connected to Houston, Texas. T&T Maintainer Howard, who installed the earlier smaller switchboard also installed the larger board and on occasion used his equipment to locate line or equipment failures. Organization filed the instant claim asserting that locating line or equipment failures is work reserved to the Wire Chief, giving rise to the instant claim.

Organization contends that the work of wire chiefs is encompassed within the Scope Rule of the parties' Agreement, and that it may not be transferred to other employees not so classified. It argues that in this case T&T Maintainer

Howard was improperly performing wire chief work with regard to communication lines emanating from Kinder, thus justifying a sustaining award.

Carrier raises the procedural objection to proceeding on the grounds that the claim does not sufficiently identify the Claimant or Claimants on whose behalf this claim is being preferred. On the merits, Carrier argues that the Scope Rule is general in nature which requires proof that the wire chief does have the exclusive right to perform the disputed services. It points to the record on the property which clearly shows that the T&T Maintainer and others have traditionally used a test board and related equipment to locate and correct failures in communications. It concludes that the T&T Maintainer had the right to install, maintain and repair switchboards and as in this case to properly do the patching and testing work associated therewith, particularly since there had never been a relay telegrapher's position assigned at this location.

Carrier's move to dismiss the claim for failure to name a claimant is without justification. We find the identity of claimant or claimants can be readily ascertained so as to satisfy Article V. 1(a) of the parties' August 21, 1954 National Agreement.

On the merits, we are concerned with whether a T&T Maintainer may make a patch on equipment to locate a line in need of repair. This Board in Award 3524, Referee Carter, held

"In this respect, we are of the opinion that testing patching and balancing is work belonging exclusively to the telegraphers when it is incidental to and done in connection with the operation of lines, either telegraph or telephone, in performing work belonging to the telegraphers under their Agreement. On the other hand, such work is not that of the telegrapher when done by Telegraph and Signal Maintainers incidental to and in connection with the maintenance of lines. . . ."

As later noted by Referee Dorsey in Award 15711, in endorsement of the foregoing award:

". . . We find that the work of patching carrier controlled communication lines belongs exclusively to telegraphers except when such work is done by maintenance employees as an incident of maintenance or repair."

In the instant case we are convinced that the disputed work performed by the Maintainer was not necessary to the maintenance of communication lines, but rather was done in connection with and incident to the operation of communication lines. Accordingly we must hold that the claim has merit.

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 violated by the Carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November, 1968.

DISSENT TO AWARD 16749, DOCKET TE-15376

(Referee Arnold Zack)

We disagree with the Majority's conclusions concerning the merits of the claim and further point out that, based on the record, the work which was the subject of the claim was not performed each and every day. Accordingly, the claim would be allowable for one man only on those dates on which the T&T Maintainer in fact performed the work held to be covered by the Agreement.

For these and other reasons we dissent.

R. A. DeRossett
C. H. Manoogian
J. R. Mathieu
C. L. Melberg
H. S. Tansley