

Award No. 18264

Docket No. TE-18514

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION DIVISION, BRAC
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Chicago, Rock Island and Pacific Railroad, that:

1. Carrier violated the Agreement between the parties when, on March 26, 1968, it required P. R. Hill, Telegrapher at Caldwell, Kansas, to perform work of Section Laborer in conjunction with his regular service.
2. Carrier shall, as a result, compensate Telegrapher Hill a day's pay (8 hours) at the rate of section laborer for March 26, 1968, in addition to the amount allowed for his service as a telegrapher.

CARRIER DOCKET: L-123-1382 — BU-13673-35

EMPLOYES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

The Agreement between the parties effective August 1, 1947, as amended and supplemented, is on file with your Board and by this reference is made a part hereof.

Claim was timely presented, progressed, including conference with highest officer designated by the Carrier to receive appeals, and has remained declined. The employes, therefore, appeal to your Honorable Board for adjudication.

The claim arose when the Conductor of Train No. 75 made request to the telegrapher on duty at Caldwell, Kansas, to secure a message from the Train Dispatcher authorizing the servings of the caboose with ice and drinking water at that station. Such authority is necessary to support the time slip of the brakeman (flagman), who is entitled to three hours extra pay for assisting the conductor in servicing the caboose for work performed outside the brakeman's class of service.

"RULE 7. RATES OF PAY TO BE MAINTAINED.

The entering of employees into existing positions or the changing of their classification or work shall not operate to establish a less favorable rate of pay or condition of employment than is herein established."

"RULE 8. POSITIONS TO BE PROPERLY CLASSIFIED.

Where existing payroll classification does not conform to the positions enumerated in the scope of this agreement, employees performing service in the classes specified therein shall be classified in accordance therewith."

"RULE 40 (a) ASSIGNMENT OF EMPLOYEES.

The assignment of an employee subject to this agreement may include clerical work ordinarily performed in conjunction with service requirements of position occupied."

OPINION OF BOARD: The essential facts are not in dispute. On the date in the claim, Claimant Telegrapher was directed to assist the conductor of a through freight train in supplying ice and drinking water to the caboose of that train.

In support of the Claim, Petitioner contends that a prima facie case was made out on the property which the Carrier did not refute. Carrier did refute the allegation that the act complained of violated Rule 40(a) of the Agreement, which reads:

"The assignment of an employee subject to this agreement may include clerical work ordinarily performed in conjunction with service requirements of position occupied."

After the parties met in conference on December 4, 1968, Carrier's highest appeals officer declined the claim, and on December 17, 1968 wrote the General Chairman, in part, as follows:

"During our discussion of this case, you were advised that it was our position that under the provisions of Article 40(a) of your Agreement, it is entirely proper to have the work in question performed by telegraphers."

Caldwell, Kansas was, on the date of the claim, a one man telegrapher station on each of three shifts. No clerical positions existed on any of those three shifts. Under Rule 40(a) work normally performed by telegraphers may include "clerical" duties. When clerical employees were assigned to Caldwell prior to May 17, 1958, they were required to and they did assist the train crew in supplying ice and drinking water to the caboose. This was part of their required duties as employees represented by the Clerks and as such was covered in the Scope Rule of that Agreement.

Petitioner attempts to distinguish between "clerical work" and "clerks' work" by observing that carrying ice and water is truly "clerks' work" and not "clerical work" as provided in Rule 40(a). This is a narrow and perhaps

specious distinction. In a one Agent station all communication and clerical work generally belongs to the assigned Telegrapher. And this includes all the duties that an employe covered by the Clerks' Agreement does and has the right to perform. Those duties are not confined to paper work or to the operation of office machines. For example, Clerks may handle baggage. Under Rule 40(a) telegraphers may also do so when no clerks are assigned. This is particularly true, as here, where the time spent in supplying ice and water is an infinitesimal part of the work of the Telegrapher and is only incidental to the major duties of the position.

For all these reasons, the Board concludes that there is no merit to 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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1970.