



Award No. 18820

Docket No. TE-15304

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Clement P. Cull, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION DIVISION, BRAC
(Formerly The Order of Railroad Telegraphers)**

ATLANTIC COAST LINE RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad, that:

1. Carrier violated the Telegraphers' Agreement when it failed and refused to permit the operator at Leesburg, Florida on August 28, 29 and 30, 1963, to perform the duties of calling train crews, work they have performed for the past twenty-five (25) years.

2. Carrier shall compensate W. C. Crosby one (1) call each date, August 28, 29 and 30, 1963.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties, effective November 1, 1939, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Leesburg, Florida is a terminal on the Carrier's Jacksonville-St. Petersburg line. In addition to through trains operated in and out of Leesburg, there are two trains which originate daily, except Sunday, at Leesburg, one northbound to High Springs, Florida and one southbound to St. Petersburg, or Trilby, Florida.

The parties are not in disagreement as to the incidents giving rise to this claim. The complement of the station force at Leesburg consists of the following employees: Supervisory Agent, workweek Monday through Saturday, assigned hours 8:00 A. M. to 5:00 P. M., with one hour for lunch. 1st Clerk-telegrapher, workweek Thursday through Tuesday, assigned hours 8:00 A. M. to 4:00 P. M. 2nd Clerk-telegrapher, workweek Monday through Friday, assigned hours 4:00 P. M. to 11:59 P. M. Regular assigned relief Clerk-telegrapher performs relief service on 1st Clerk-telegrapher position each Tuesday and Wednesday and each Saturday on the 2nd Clerk-telegrapher position.

In addition to the station force outlined, the Carrier also employs a part-time station hand at Leesburg.

For many years prior to the dates forming the basis for this claim, Claimant Crosby was required to work a call, in order to notify train crews, prepare switch lists and copy train orders for trains originating at Leesburg.

ermen, Levermen, Tower and Train Directors, Block Operators, Staffmen, Car Distributors, and such agents as are shown in the wage scale.

The term 'employees', as hereinafter used, embraces all of the above named classes.

(b) The employees herein specified will be paid on the hourly basis, except as may be otherwise shown in the wage scale.

(c) Articles 3, 4 and 5 do not apply to positions shown in the wage scale at monthly rates."

OPINION OF BOARD: The claim alleges violation of the Telegraphers' Agreement on three dates when a station laborer not covered by the agreement was required to notify or call a train crew to report for duty. This service had customarily been performed by a telegrapher in connection with other duties relating to handling of the train.

It appears from the record that no service other than calling the crew was required on the claim dates. The Employees contend, however, that because the telegrapher had performed that service for a long time he had acquired a right to continue its performance superior to any other employee.

It is well established that the calling of crews is not an inherent component of a telegrapher position, but may often be required as an incident to other work customarily assigned to telegraphers. Carrier's position here is that such duty was only incidental to the work which was customarily performed by the telegrapher but which was not needed on the three dates in question.

The burden of establishing agreement support for its claim rests with the petitioner. Citation of awards may well provide support for a principle or theory, but cannot show that a particular item of work has been reserved, under any and all conditions, to a particular craft. And the mere repetition of a service may not, in the absence of more basic evidence of intent, serve to reserve that particular service to one group of employees to the exclusion of all others.

Especially noted is the failure of the Petitioner to refute Carrier's assertion that the service here involved, the calling of crews, is customarily performed not by telegraphers but by other classes of employees throughout its lines.

Therefore, it must be concluded that the Petitioner has not sustained its position, and 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 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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 19th day of November, 1971.