

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19286
Docket Number TE-16393

Thomas L. Hayes, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Formerly Transportation-Communication Employees Union)

PARTIES TO DISPUTE:

(
(The Kansas City Southern Railway Company
(Louisiana & Arkansas Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Louisiana and Arkansas Railway and The Kansas City Southern Railway, that:

CLAIM NO. 1

1. Carrier violated the Agreement between the parties when it required or permitted persons not covered by said Agreement to send or receive communications of record at Deramus Yard, Shreveport, Louisiana, and at Lake Charles, Louisiana.

2. Carrier shall compensate, beginning September 20, 1964 and for each day thereafter, the senior idle telegrapher (extra in preference) one day's pay at the rate of the telegrapher positions where they are employed, for each shift during which the improper assignment of communication work was performed.

3. Carrier shall permit joint check of records to determine names of the proper claimants.

CLAIM NO. 2

1. Carrier violated the Agreement between the parties when it required or permitted persons not covered by said Agreement to send or receive communications of record at Kansas City, Missouri, Pittsburg, Kansas, Heavener, Oklahoma, DeQueen, Arkansas, Texarkana, Texas, Beaumont, Texas and Port Arthur, Texas.

2. Carrier shall compensate, beginning May 6, 1965 and for each day thereafter, the senior idle telegrapher (extra in preference) one day's pay at the rate of the telegrapher positions where they are employed, for each shift during which the improper assignment of communication work was performed.

3. Carrier shall permit joint check of records to determine names of the proper claimants.

OPINION OF BOARD: The contention of the Employees in this case is that Carrier violated the terms of the applicable agreement by its failure to assign the operation of IBM 1050 machines to those covered by the Telegraphers' Agreement. In support of their position, the Transportation-Communication Employees Union (formerly the O.R.T.) points to the Scope Rule in its agreement which has a listing of "operators of teletype or other machines commonly recognized as mechanical telegraph machines which utilize Company wires."

To prevail in this dispute, the telegrapher must show, among other things, that the machines involved in this case utilize "Company wires," according to the provisions of the Scope Rule.

The Board finds that the IBM machines in this case involved the use of wires that are the property of a public utility company and are neither owned nor maintained by the Carrier. We do not think the ordinary meaning of the words "Company wires" would encompass wires that were not owned and maintained by Carrier but only leased by it. Therefore, we are of the opinion that the Telegraphers do not have an exclusive right to the operation of the IBM 1050 machines.

The Clerks, also filed a submission in this dispute alleging that the operation of the aforesaid IBM machines is work belonging to the Clerks.

The Clerks' Scope Rule is very general in nature and does not define the work covered. We therefore must look to the work ordinarily performed by employees under the Scope of the Clerks' Agreement. In so doing we find that some of the work done on 1050 machines is generally done by Clerks while Telegraphers also operate the 1050 machines.

Carrier takes the position that "while the work involved in this case is engaged in by Clerks represented by the BRAC it is not exclusively assigned to them." In this assertion we concur.

For the reasons already stated, we hold that operation of the IBM 1050 machines is not exclusively assigned to one craft. The claim is therefore 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: EA. Killen
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June 1972.