

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **19844**
Docket Number TE-19576

Alfred H. Brent, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, **Express** and Station Employees
((formerly **Transportation-Communication** Division, BRAG)

PARTIES TO DISPUTE: (

(Fort Worth and Denver Railway Company

STATEMENT OF CLAIM: Claim of the General **Committee** of the Transportation-communication Division, BRAC, on the Fort Worth and Denver Railway, that:

1. Carrier **violated** the Agreement between the parties **at Amarillo**, Texas when, on May 16 and June 6, 1970, it permitted or required an employee not covered by the Scope to receive communications of record.

2. Carrier shall, as a result, compensate Telegrapher **J. L. Dalton** one day's pay at the pro rata rate for each violation set forth above. Total amount of claim - \$55.75.

CARRIER **DOCKET:** T-24

OPINION OF BOARD: The Organization contends that the Carrier violated the Agreement between the parties when it permitted or required an employee not covered by the Scope Rule of Agreement to receive communications of record on **May** 16 and June 6, 1970.

The Carrier contends that these communications were not received by any employee, but by an automatic machine, an IBM 1050, electronically activated from another location.

The Scope Rule of this Carrier has been held to be general in nature, which does not grant to telegraphers the exclusive right to handle "communications of record." In this **case** the machine received a consist, which was not a **communication** of record controlling the movement of trains. Furthermore, this division has not supported the proposition that when an automatic machine is installed to perform a certain function the employee who previously performed that **function is** entitled to remain simply to watch the machine operate. See 8656 (Guthrie), 9913 (Begley), 14969 (**Ritter**). Further, this division has held that the clerk who tore off the consist from the machine and removed the punched cards from the hopper was not "an operator of the device". See 14184, 14185 (Dolnick).

On the other hand, the Organization contends that Award #16079 (Engelstein) held under similar circumstances that where the record shows that prior to the change the operator was present, and inasmuch as the change resulted in others outside the Agreement handling the messages, Rule 1(b) was violated,

Rule 1(b) reads as follows: "Improvements or changes in the manner of handling train orders or communications of record shall not operate to take that work out from under the agreement."

It seems clear that the work performed here is identical to the work performed during the regular shift, and under that clear language of Rule L(b) it would appear that there was a violation and that the claimant is entitled to a call under the Call Rule (3 hours pay for 2 hours work or less) for two calls, one for each day of violation,

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.

A W A R D

The claim is allowed as modified in the Award.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1973.