

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20359
Docket Number CL-20325

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight **Handlers**, Express and Station **Employees**
{ (Formerly Transportation-Communication Division, BRAC)
(Norfolk and Western **Railway** Company
((Lake Region)

STATEMENT OF CLAIM: Claim of the General **Committee** of the **Transportation-Communication** Division, BRAC, on the Norfolk and **Western Railroad** (Lake Region), GL-7318, that:

1. Carrier is violating the **Agreement** between the parties by requiring and **permitting trainmen** and other **employees** to use the telephone for the purpose of blocking **trains**, handling (sending and receiving) train orders and **messages** at **Gambrinus** Yard, Ohio.

2. Carrier **shall**, as a result, **compensate** the first out extra telegrapher, or the senior regular telegrapher observing rest day if no extra telegrapher idle, a three-hour call for each occurrence in accordance with Paragraph (D) of **Memorandum Agreement** effective **March 1, 1962**, for so long as violations continue, except in no case **will** less than eight hours' pay **be allowed** for **any** date.

CARRIER DOCKET: TC-CAN-71-5
COMM. DOCKET: C-71-11

OPINION OF BOARD: The Canton Ohio **Terminal** of Carrier includes within its Units the Canton Yard and the **Gambrinus** Yard. Prior to August **11, 1971** Carrier had maintained three seven day telegrapher positions at its Canton Yard who's responsibilities included the use of the telephone for relaying instructions **and** messages concerning train movements throughout the Canton **Terminal**. Effective August **11, 1971** Carrier abolished the second, third **and** relief **Operator** positions at Canton Yard. Petitioner **alleges** that thereafter the telephone responsibilities referred to **above** were carried out by **Trainmen, Yardmasters** and Clerical employees at the **Gambrinus** Yard, giving rise to this dispute.

Petitioner relies on the Scope Rule, which is general, and the specific terms of **Rule 26**:

"RULE 26 - HANDLING TRAIN ORDER

it is not the disposition of the **Railroad** to displace employes covered by this **agreement** by **having trainmen** or other **employees** operate the telephone for the purpose of blocking trains, handling train orders or messages. This does not apply to train crews using the telephone at the **ends** of passing sidings or spur tracks in **communicating with** the operator."

Petitioner, on the property, cited a number of specific instances where information was relayed through yardmasters, trainmen and clerks. Carrier, in response, stated that all the information alluded to, which had previously been handled through the Operator at the Canton Yard was subsequent to August 11, 1971, handled through the Operators at "BX" or "D" office at Brewster. While not denying this factual assertion, the Organization claims that the language of the last sentence of Rule 26 supports the claim in that it did not intend "...to except the use of the telephone at the ends of passing sidings or spur tracks to communicate with any operator, rather than with the operator at the station where the spur track or passing siding was located." We do not agree with this reasoning. In our view the sentence may not be construed so narrowly and may be freely interpreted to mean operator - regardless of location.

The record in this case clearly demonstrates that the work in question was re-d from the purview of the abolished operators positions and given to other operators to perform; such a change in operations is not contrary to the Rules. No basis for this Claim has been established and it will 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Poulos
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of August 1974.