

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20360
Docket Number CL-20326

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 Railway (Lake Region), GL-7319, that:

1. Carrier violated and continues to violate the Agreement between the parties by requiring and permitting clerical employees to use the telephone at Gambrinus, Ohio to transmit messages (train consists).

2. Carrier shall, as a result, compensate the first-out, idle extra telegrapher, or the senior regular telegrapher observing rest day if no extra telegrapher is idle, payment in accordance with Paragraph (D) of Memorandum Agreement of February 23, 1962.

CARRIER DOCKET: TC-CAN-n-4
COMM. DOCKET: c-n-10

OPINION OF BOARD: Effective August 11, 1971, the Carrier abolished the second, third and relief Operator positions at its Canton Yard. One of the duties of the abolished positions, according to Petitioner, was to transmit by telephone to the train dispatcher and the general yardmaster at Brewster, Ohio the train consists of Puller Crews operating between Gambrinus Yard and Brewster Yard. Petitioner alleges that with the abolishment of the Operator positions the Carrier transferred the work of using the telephone to handle the train consists involving the Pullers to clerical employees at the Gambrinus Yard. The Organization relies on the Scope Rule and principally Rule 26 to support its contentions:

"RULE 26 - HANDLING TRAIN ORDER

It is not the disposition of the Railroad to displace employees 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."

In addition to other defenses, Carrier asserts that the Operators at Brewster were used, after August **11, 1971**, to transmit the consists **information** to the train dispatchers **and** the general **yardmaster**. Furthermore, Carrier contends, that the use of the telephone to transmit this type of information is not **and** has not been the exclusive work of telegraphers.

An examination of the record in this case reveals that it is singularly devoid of proof or even information to support Petitioner's position. We have only **argument and citations and** one "**example**" of **an** alleged use of the telephone by a clerk on September 8, **1971**. **There** is no evidence or information with respect to the precise type of work involved, how it was performed prior to **August 11th** and which **employees** performed the work after that date. **Furthermore**, we find no effective rebuttal of Carrier's **argument** that the work **was** merely **transferred** to the Operators at Brewster.

Petitioner must establish a prima facie case, supported by evidence submitted on the property, in order to be given consideration **by** this Board. In the absence of such **minimal** effort, we have no alternative but to deny 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 **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. Paulos
Executive Secretary

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