

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27108
Docket No. CL-26175
88-3-84-3-580

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Pittsburgh and Lake Erie Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-9958) that:

(a) In accordance with Article 35 of the Order of Railroad Telegraphers Agreement, effective June 1, 1951, as amended, we are appealing the decisions of Supt.-Labor Relations, Mr. R. W. Roberts in his letters dated January 25 and March 8, (2 letters) 1982.

(b) Carrier had violated the Telegraphers Agreement effective June 1, 1951 as amended particularly Article II, Deadheading also the Memorandum of Agreement dated October 21, 1952.

(c) Article II - Deadheading states:

(a) An extra employe when called for service by proper official and required to deadhead by any means of transportation the employe elects to use, shall be paid for the deadhead trip from his headquarters station to and from station for which called, at straight time rate of the position to be worked. 'TIME ENROUTE' does not include any time at headquarters or at the point to which deadheaded. Time allowance for the deadhead trip from headquarters station to and from the position to be worked, will be paid as provided in the chart captioned, 'PRO RATA DEADHEAD ALLOWANCES FOR EXTRA TELEGRAPH OPERATORS FROM THE VARIOUS ESTABLISHED HEADQUARTERS', attached hereto and made a part hereof; (unless otherwise agreed by General Chairman and Management, Headquarters for extra men will be established at Youngstown proper, New Castle, Beaver Falls - New Brighton, Pittsburgh, McKeesport and Connellsville, extra men affected will adopt one of these specified points nearest their residence as headquarters).

(d) Carrier now compensate, Telegraph Operator, Mr. C. W. Metzger, the allowance deadhead time from Connellsville to Pittsburgh and return for each day that he was assigned to work at PIT Office, PGH, PA and RS Office, Struthers Ohio and also from Connellsville to Newell and return for each day that he was assigned to work in the Agency Office at Newell, PA for September 20, 1981 and each subsequent day thereafter at Newell, PA for September 20, 1981 and each subsequent day thereafter until this violation is corrected.
(BRAC-1-82)

BRAC CASE NO. 2-82

(a) In accordance with Article 35 of the Order of Railroad Telegraphers Agreement, effective June 1, 1951, as amended, we are appealing the decisions of Supt.-Labor Relations, Mr. R. W. Roberts in these letters dated January 25 and March 8, (2 letters), 1982.

(b) Carrier had violated the Telegraphers Agreement effective June 1, 1951 as amended, particularly Article 11 Deadheading and also the Memorandum of Agreement dated October 21, 1952.

(c) Article 11 - Deadheading states:

(a) An extra employe when called for service by proper official and required to deadhead by any means of transportation the employe elects to use, shall be paid for the deadhead trip from his headquarters station to and from station for which called at straight time rate of the position to be worked. 'TIME ENROUTE' does not include any time at headquarters or at the point to which deadheaded. Time allowance for the deadhead trip from headquarters station to and from the position to be worked, will be paid as provided in the chart captioned, 'PRO RATA DEADHEAD ALLOWANCES FOR EXTRA TELEGRAPH OPERATORS FROM THE VARIOUS ESTABLISHED HEADQUARTERS', attached hereto and made a part hereof; (unless otherwise agreed by General Chairman and Management, Headquarters for extra men will be established at Youngstown proper, New Castle, Beaver Falls-New Brighton, Pittsburgh, McKeesport and Connellsville; extra men affected will adopt one of these specified points nearest their residence as headquarters).

(d) Carrier now compensate Telegrapher Operator, Mr. D. A. Bowman, the allowable deadhead time from Beaver Falls-New Brighton to Struthers, Ohio and return to Pittsburgh, PA and return for September 20, 1981 and each subsequent day thereafter that he was assigned to work PIT Office, Pittsburgh, PA and RS Office, Struthers, Ohio, until this violation is corrected. (107-9192)

BRAC CASE NO. 3-82

(a) In accordance with Article 35 of the Order of Railroad Telegraphers Agreement effective June 1, 1951, as amended, we are appealing the decisions of Superintendent-Labor Relations, Mr. R. W. Roberts in his two (2) letters dated May 8, 1982.

(b) Carrier had violated the Telegraphers Agreement effective June 1, 1951, as amended, particularly Article 30-Transportation and others when they changed Telegraph Operator, Mr. C. W. Metzger's Headquarters station which was Connellsville, PA to Pittsburgh, PA without an agreement.

(c) Carrier now compensate Mr. C. W. Metzger the allowable mileage allowance from Connellsville to Pittsburgh and return for each day that he was assigned to work at PIT Office, and RS Office at Struthers, Ohio and also from Connellsville to Newell and return for each day that he was assigned to work in the Agency Office at Newell, PA for September 20, 1981 and each subsequent day thereafter until this violation is corrected.

BRAC CASE NO. 4-82

(a) In accordance with Article 35 of the Order of Railroad Telegraphers Agreement effective June 1, 1951, as amended, we are appealing the decisions of Superintendent-Labor Relations, Mr. R. W. Roberts in his two (2) letters dated March 8, 1982.

(b) Carrier had violated the Telegraphers Agreement effective June 1, 1951, as amended, particularly Article 30-Transportation and others when they changed the headquarters station of Mr. D. A. Bowman from Beaver Falls-New Brighton to Youngstown, Ohio without an agreement.

(c) Carrier now compensate Mr. D. A. Bowman the allowable mileage allowance from Beaver Falls-New Brighton to Struthers (Youngstown) Ohio and return, to Pittsburgh and return for September 20, 1981 and each subsequent day thereafter that he is assigned to work PIT office, Pittsburgh, PA and RS office, Struthers, Ohio, until this violation is corrected."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon..

The instant dispute has its genesis in a September 14, 1981, letter from the Carrier's Director of Labor Relations and Personnel to the General Chairman. It stated:

"It has recently been called to my attention that Extra Telegraph Operator C. W. Metzger is being erroneously compensated for time spent in travelling under Article 11 - Deadheading - and mileage for the use of his private automobile under Article 30 - Transportation - of the former Order of Railroad Telegraphers' Agreement effective June 1, 1951 with revisions to September 1, 1952.

A review of Article 11 - Deadheading - reveals that as of June 1, 1951 the following cities were agreed upon as headquarter stations for extra telegraphers; Youngstown proper, New Castle, Beaver Falls - New Brighton, Pittsburgh, McKeesport and Connellsville. That rule also provided that extra men affected will adopt one of the specified points nearest the residence as headquarters. With the installation of C. T. C. in 1968, numerous Telegraph Offices between Youngstown, Ohio and Newell and Connellsville, Pa. were closed with the result that New Castle, Beaver Falls - New Brighton and McKeesport no longer existed as headquarter stations and extra employees then in service, or employed thereafter, adopted Youngstown, Pittsburgh or Connellsville (whichever was nearest to their residence) as their headquarter station.

Effective with the close of business at 3:59 P.M., January 14, 1977, by Agreement dated January 7, 1977, 'CV' Tower at Connellsville was closed and as a result Connellsville ceased to exist as a headquarters station. C. W. Metzger, one of the affected employees residing at Connellsville, exercised his seniority and marked up on the guaranteed extra list of Telegraphers maintained at the 'PIT' Office, Pittsburgh, Pa., and was erroneously permitted to adopt Connellsville as his headquarters station for the purpose of applying the travel time allowance and mileage allowance provisions of Rules 11 and 30 of the Telegraphers' Agreement.

Therefore since Connellsville no longer exists as a headquarters station, this is to advise that inasmuch as Pittsburgh is now the headquarters station closest to Mr. Metzger's residence we are as of this date recognizing Pittsburgh as his headquarters station and any travel time or mileage allowances will be paid from that station."

Carrier later discovered a similar situation existed with respect to employee J. E. Nichols and D. O. Bowman, and sent a similar letter. A series of letters on the subject were exchanged ultimately resulting in the instant claims.

The Organization primarily relies on Article II noting under the clear language therein Management is prohibited from changing headquarter points without mutual agreement. It is essentially the Carrier's position that since the Connellsville and Beaver Falls-New Brighton stations were closed and since a Memorandum of Agreement eliminated all regular positions such a station would likewise be "automatically" eliminated from the list in Article II(a).

It is the conclusion of the Board that the claim must be sustained. The only condition under which the Agreement allows a change in headquarters points for extra telegraphers is by mutual agreement. If the parties wanted headquarter points to change automatically when stations were eliminated they could have said so at the time Article II was negotiated.

They also had an opportunity to address this matter on October 19, 1967, when Beaver Falls-New Brighton regular positions were eliminated and January 7, 1977, when Connellsville regular positions were eliminated. It would have been an easy matter to have explicitly dealt with, at the same time, extra positions as well.


The lineage of Article II along with the fact the Parties didn't treat this subject at the opportune time and the fact the Claimants were treated as if their headquarters remained the same for many years makes it too difficult to agree with the Carrier.

A W A R D

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 17th day of May 1988.