

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
THE COLORADO AND SOUTHERN RAILWAY COMPANY

DISPUTE.—“Agent O. O. Twiss for return to agency at Wheatland, Wyoming, from which he was wrongfully displaced and for time and commissions lost thereby.”

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

The carrier and the employee involved in this dispute are respectively carrier and employee 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.

The parties to said dispute were given due notice of hearing thereon.

For several years Greeley, Colorado, was operated as a joint agency, by and between, the Colorado and Southern Railway Company and the Union Pacific Railroad Company, under the control of and operation by the Union Pacific Railroad Company.

Effective January 20, 1935, the Colorado and Southern Railway Company established its separate agency at Greeley, Colorado (a supervisory agency). R. M. Reed, regularly assigned to the position of Agent-Telegrapher at Wheatland, Wyoming (a position covered by the Telegraphers' Agreement), was appointed the supervisory agent in charge of the station; and his former position of Agent-Telegrapher at Wheatland, Wyoming, was on January 19, 1933, bulletined by the carrier, its bulletin reading as follows:

“DENVER, JAN. 19, 1933.
“Applications will be received in this office until 10 A. M. January 24, 1933, for the following positions:

“Notice No. CD-85 Telegrapher, Greeley, permanent.
CD-86 Agent-Telegrapher, Loveland, 55 days.
CD-87 Agent-Telegrapher, Wheatland, permanent.

“In bidding quote bulletin number.

“C. C. WHITMAN. 10:58 A. M.”

In accordance with the requirements contained in Rule 25 (a) in the Agreement reading as follows:

“When vacancies of fifteen days or more occur, or additional positions are created, notice of same will be furnished all employees affected in order that they may present their applications for consideration.”

On January 24, 1933, the carrier announced that bids had been received from several applicants for the vacancy of Agent-Telegrapher at Wheatland, Wyoming, and that O. O. Twiss was the successful applicant, and he was accordingly assigned to the vacancy.

Effective March 22, 1933, the carrier discontinued its separate agency at Greeley, Colorado, resulting in a reduction in force, and permitted R. M. Reed to return to his former position of Agent-Telegrapher at Wheatland, Wyoming, effective on or about March 28, 1933, displacing O. O. Twiss, the claimant in this case.

When the carrier discontinued its separate agency at Greeley, Colorado, effective March 22, 1933, resulting in a reduction in force, R. M. Reed should have been required to exercise his displacing rights in accordance with Rule 24 (a) in the Agreement reading as follows:

“When reduction in force is necessary division seniority will govern, and an employee so reduced will have the right to displace the youngest assigned telegrapher holding a regular position on such division.

“NOTE.—An employee exercising his rights under this paragraph must do so within fifteen days of displacement.”

AWARD

O. O. Twiss shall be restored to agency at Wheatland, Wyoming, and paid for time lost, including commissions paid for handling milk and cream at Wheatland, Wyoming, less any amounts earned in other employment.

In view of the circumstances surrounding this particular case claim for Express commissions is denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 2nd day of May 1935.