

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY**

DISPUTE.—"Claim of The Order of Railroad Telegraphers that the rate of pay for railroad agent at Truman, Arkansas, should not be reduced below .8245 cents per hour upon being required to also serve the Railway Express Agency, Inc., as agent at his station, effective as of March 1, 1931, and that the agent be reimbursed retroactively to that date and at that rate of pay."

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. A hearing was had. The Third Division failed to agree upon an Award because of a deadlock. Paul Samuell was selected as its referee to sit with the Division as a member thereof and make an Award.

Prior to May 1, 1921, agent at Truman, Ark., handled express business on a commission basis. The Railway Company paid this agent at rate of 71¾ cents per hour. Effective May 1, 1921, express agency taken away from the station agent and an exclusive express agency established. In accord with provisions of Article XIV reading as follows:

"For positions under this Schedule, where a part of the employee's compensation is paid in express commissions, in the event the commission is taken away, the hourly rate will be adjusted to correspond with the importance of the position and other conditions, including wages paid by the railroad for similar positions in the same territory",

the agent's rate was increased 20¾ cents per hour through agreement with the Telegraphers' Committee, making a basic rate of 92½ cents per hour.

Effective March 2, 1931, express agency discontinued its separate agency and replaced handling of express on a commission basis on the Railway Agent, whose hourly rate at that time was 90 cents per hour. Without conference with the Telegraphers' Committee the Carrier reduced the agent's basic rate of pay 20 cents per hour, making a basic rate of 70 cents per hour.

Article XIV of the Telegraphers' Agreement in effect at that time reads as follows:

"For positions covered by this Schedule where a part of the employee's compensation is paid in express commissions, in the event the commission is taken away, restored or created, the hourly rate will be adjusted to correspond with the importance of the position and other conditions, including wages paid by the Company for similar positions in the same territory. Joint agents with the railroad and express company, who are required to handle milk and/or cream by baggage, will receive the same rate of commission on the milk, and/or cream traffic that they receive on the same traffic when handled by express."

Employee maintains that when the express business was taken away from the station agent in 1921, the increase in his rate of pay amounted to 28% of the commission he was at that time receiving, and when the express agency was returned to him in 1931, the reduction made in his hourly rate amounted to 97.51% of the total amount of the commissions received at that time; that

applying the same percentage basis in 1931 to 1921, the amount of the reduction should have been only .0574 cents per hour, thus establishing a rate of 84.26 cents per hour in 1931.

The employee supports his claim for increase entirely upon a comparison of the 1921 and 1931 figures, using the 1921 figures as the basis. There is nothing in the contract to support such method of comparison and computations. Many conditions, both local and national, have changed in the ten-year period. Wages have been increased and decreased, and there is no more reason why the year 1921 should be selected as a basis for comparison than any other year prior or subsequent thereto.

The contract between the parties provides in a general manner the basis of fixing the rate, i.e., importance of position, including wages paid by the Company for similar positions in the same territory. In reviewing the record, this Division has concluded there should be some small increase, but not that asked by the employee.

AWARD

The rate of pay for the railroad agent at Truman, Arkansas, shall be fixed at 75 cents per hour, beginning November 1, 1935.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 25th day of September 1935.