

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS
RAILWAY**

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Peoria and Eastern (Cleveland, Cincinnati, Chicago and St. Louis Railway), that the telephone service now being performed in the yard office at Hilliary, Illinois, is work coming within the scope of The Telegraphers' Agreement and shall be assigned to employees covered by said agreement."

STATEMENT OF FACTS: In their ex parte submission the General Committee stated the facts as follows:

"At Hilliary Yard, Danville, Illinois, telegraph service has been maintained by the carrier for many years. The Order of Railroad Telegraphers negotiated its first schedule agreement with the Cleveland, Cincinnati, Chicago and St. Louis Railway, effective as of March 1, 1907, and at that time telegraph service was being supplied.

"The organization obtained jurisdiction of the telegraph jobs at Hilliary Yard along with many others, and they were accordingly incorporated in the Telegraphers' Agreement. These jobs have been included in each succeeding schedule to and including the schedule, effective May 16, 1928.

"On February 16, 1931, the carrier alleged the three telegraph jobs at Hilliary Yard were abolished and the three telegraphers who had performed this work theretofore, were removed therefrom. Prior to the alleged abolishment, continuous telegraph service through a 24 hour period, seven days per week, was maintained.

"Hilliary Yard is located on the outskirts of Danville, at which point trains are switched. The nearest point at which service is performed by employees covered by the Telegraphers' Agreement is Wyton Tower located 2.7 miles east of Hilliary Yard Office.

"Since telegraph service performed by employees covered by the Telegraphers' Agreement has been suspended, conductors have been getting train orders, clearance cards, and other information pertaining to the movement of trains from Wyton Tower and direct from the Train Dispatcher by telephone."

The Carrier stated the facts as follows:

"'Hilliary Yard' is within the general terminal limits of the P. & E. Ry. at Danville, Ill., being west of the city proper. The yard limits to the east are on the eastern outskirts of the city, and beyond Hilliary Yard to the west.

ployment of telegraphers in a wholly separate office at the west end of Hilliary Yard is not a pertinent factor in this case, and that a decision from this Board that the Assistant Yardmaster jobs belong to telegraphers would be used by the Committee to demand that various positions of other recognized classes must be incorporated in the Telegraphers' schedule, because of ordinary and proper use of the telephone not in conflict with any schedule provisions.

"The change made by the management on February 16, 1931, amounted simply to closing the train order office at the west end of Hilliary Yard, transferring the train order and telegraph work to Wyton telegraph office. We did not change the work in the Yard Office at the east end of the yard at all, or the method of performing same, except that with the closing of Hilliary telegraph office, 0.85 mile west of the Yard Office, the messages or reports previously handled by the Assistant Yardmasters with that office were handled instead at Wyton telegraph office, 2.7 miles east of the Yard Office.

"The closing of the Hilliary train order office does not in itself afford any basis whatever for any claim. It has always been the practice on this property and on railroads generally, to open and close train order offices according to operating requirements. A separate train order office was not necessary at Hilliary from an operating standpoint. Because of passenger trains running late during the holiday season, we opened Hilliary (the old west end office) as a train order office from December 19, 1936, to December 30, 1936, for one trick 8:00 P. M. to 4:00 A. M. The operation of the office for this period did not affect the work of the Assistant Yardmasters at all, excepting only that some of the outbound messages and reports were telephoned to this telegrapher instead of to Wyton, for transmission over line wires. This again demonstrates that the closing of the west end telegraph office has no bearing on the duties of the Assistant Yardmasters. The west end telegraph office was again opened on January 9, 1937, from 8:00 P. M. to 4:00 A. M., but this was due to temporary conditions and we do not expect to continue this regularly.

"It is not improper or in violation of the schedule for the Assistant Yardmasters to telephone their messages or reports as described herein, nor is it improper or in violation of the schedule for them to hold telephone conversations with the Chief Dispatcher or dispatcher, concerning train and yard matters under their own immediate direction and jurisdiction. Any ruling to the contrary would be equivalent to a change in the schedule, as neither the present schedule nor past practices would support such a decision."

"In summarization the Management submits:

"There has been no assignment of telegrapher duties to employees of other classes at Hilliary, and no violation of the schedule.

"The work performed by the Assistant Yardmasters and the manner of its performance is the same as it has been for many years.

"There is no necessity for the employment of telegraphers in the Yard Office at Hilliary, and no reason for reclassifying the existing positions. These positions include important supervisory responsibility, in addition to the performance of heavy routine duties not reserved to telegraphers by rule or practice.

"The Committee is in fact endeavoring to extend the scope of the telegraphers' schedule."

OPINION OF BOARD: In support of this claim of the General Committee of The Order of Railroad Telegraphers, that the telephone service now being performed in the yard office of the Carrier at Hilliary, Illinois, is work coming within the scope of the Telegraphers' Agreement, the General Committee contends that while the Carrier, effective February 16, 1931, abolished the three telegraphers positions at Hilliary and closed the office, these posi-

tions were not abolished, in fact in that work of the same class and nature formerly performed by these telegraphers continued to exist, and thereafter was performed by train service employes and assistant yard masters.

In their submission the General Committee cite Article 1, the scope rule of the Telegraphers' Agreement with the Carrier, and Article 20 covering the classification of employes when work exists that is specified in the Scope Rule; and further cite various Awards and Decisions of the United States Labor Board as having a bearing on the issues involved in the claim.

The Carrier submits that the discontinuance or abolishment on February 16, 1931, of the office at Hilliary had no effect on the duties of the Assistant Yardmasters located in the yard office in the Hilliary yards, except that outbound messages and reports formerly telephoned by the Assistant Yardmasters to the operators at Hilliary were, after February 16, 1931, telephoned to the operators at Wyton, while inbound messages were similarly telephoned by operators to Assistant Yardmasters.

In further connection with the use of telephones by Assistant Yardmasters the Carrier submits that such use is purely incidental and properly related to their principal duties; that these employes are charged definitely with authority and responsibility and their primary and preponderant duties are totally different from those performed by telegraphers. Insofar as the use of telephones by train crews is concerned the Carrier contends that if orders have been telephoned by the dispatcher this is not a required, regular or authorized practice unless some unusual, unexpected or exceptional conditions were to prevail.

No question has arisen in this claim as to the proper application of the scope or other rules of this Agreement, each of the parties being in accord as to their meaning and application; while in the various awards, rulings and decisions cited, the Board submits that the conditions covered by this claim cannot be determined by the action taken with respect to varying conditions existing at other points, but must be determined by the conditions evidenced in the case at issue.

In their presentation of this claim the employes contend that the service rendered by other employes than telegraphers, following the abolishment of the Hilliary station, was a continuance of the service performed prior to the abolishment of the telegraph service.

The Carrier is equally insistent that at the time the telegraph work was abolished and the office closed the work formerly performed at the Hilliary telegraph office was performed at Wyton Tower.

This Board has repeatedly ruled that where stations are abolished by the Carrier and the work continues to be done, such action would constitute a violation of the existing agreement unless the action had been taken by following the same process of conference and negotiation as when the positions in dispute were placed in the schedule.

In the present instance, however, the office in discussion was closed and the telegraph service discontinued, and whether or not the former work continued or continues to be done by telephone instead of telegraph, and by a group of employes of various classifications other than telegraphers, is not entirely clear and is a condition that can only be determined through a joint conference between the parties, and an analysis of the actual work being performed insofar as it applies to the subjects at issue in this claim.

In view of these conditions, the opinion of the Board is that a conference such as outlined be called, and if after such analysis as is made the facts disclose that the work is being distributed or handled in an improper manner, such facts should be made a matter of early negotiation between the parties for a proper adjustment of the situation, with the understanding that nothing in these recommendations shall militate against the representation of his

claim, with such additional facts as may be disclosed through the analysis made should the conference recommended fail in negotiating the proper adjustment.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and 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 claim be remanded to the parties at interest for further analysis and negotiation with the privilege of reinstating claim should conditions warrant such action.

AWARD

Claim remanded under conditions outlined in last paragraph of Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 7th day of October, 1937.