

Award No. 4063
Docket No. CL-3945

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

FLORIDA EAST COAST RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

- (a) the carrier is violating the scope and seniority rules of the Clerks' Agreement by withholding from employes work of a character that is covered by the agreement, and
- (b) that the carrier shall now be required to place the work hereinafter described within the scope and operation of the Clerks' Agreement.

EMPLOYES' STATEMENT OF FACTS: Some time during the early part of 1945 a telephone circuit previously known as the "private line" and utilized by the General Superintendent, the Superintendent at New Smyrna Beach and the Trainmaster at Miami, was converted into a circuit for use by offices which also were served by the message telephone circuit. The circuit previously known as the private line circuit is operated by a person in the various offices by the use of a push button, but the message telephone circuit is operated through a switchboard handled by telephone operators who are covered by the Clerks' Agreement.

Prior to the time the change described above was made there were only three offices utilizing the private line circuit, but when this circuit was released to other offices in order to relieve the burden on the message telephone circuit, twelve additional offices were added to the circuit, all of which, with the exception of three, were already being served by the message telephone circuit, which, as stated before, is operated by employes covered by the Clerks' Agreement.

POSITION OF EMPLOYES: In support of their claim, the employes cite the following rules of January 1, 1938 agreement:

Rule 1

"These rules shall govern the hours of service and working conditions of the following employes subject to the exceptions noted below:

* * *

Group (2) Other office and station employes—such as office boys, messengers, chore boys, train announcers, gatemen, train and

crafts and officers alike. By far the vast majority of the use of them is made by clerks and it certainly could not be held that the ringing of a telephone bell by one clerk instead of some other clerk would constitute removal of work from the scope of the Agreement by any stretch of imagination or distortion of the Scope Rule; and to contend that on those occasions when an officer or member of another craft has use for a telephone he must ask some clerk to press the bell button for him is patently so ridiculous and inconsequential as to have never been the subject of any previous claim before the Third Division in all its history insofar as the Railway can determine from a search of the awards made by that Division. To be sure there have been many awards dealing with claims concerning officers and others on other railways doing clerical work and in those the Third Division has consistently held that a certain amount of so-called clerical work is present on most any position and have denied the claims. The same is true of the use of telephones.

The Employes are certainly "hard put" to find a source for grievance when they can find nothing more substantial to complain about than that some officer or employe other than a clerk is depriving them of work because in twelve offices officers and employes other than clerks are in the minor use of an auxiliary telephone circuit placing a finger on a bell button and pushing it in about a quarter of an inch instead of asking some clerk to do it, a movement requiring possibly two seconds at most. Should in those offices fifty such calls a day be made not over two minutes would be involved. If the Third Division has ever been asked to waste its time on a more inconsequential case then the Railway is not aware of it, and this is all the more apparent because on the only circuit which clerks have ever been used to operate a bell ringing system and the only one on which they claim such right (the Message Circuit) the same number of bell ringers are used now as ever were used before and the circuit is worked to capacity. It is all the more apparent also when one happens to note the fact that it is not the ringing of the bells on the Message Circuit that consumes the time but instead it is the conversations; and if the Railway should install a selector key system on the old so-called "Private Line Circuit" the present bell ringers on the Message Circuit would have time and to spare to ring the bells for the sixteen offices on the so-called "Private Line Circuit."

This claim is entirely without foundation in the Clerks' Agreement, is entirely otherwise lacking in merit, and has no basis in sound reason. It should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier maintains three types of telephone lines on its property. They are referred to as Dispatcher's Circuit, Message Circuit and Private Line Circuit.

The Dispatcher's Circuit is for the use of those directly concerned with the movement of trains. It consists of a single circuit and in order to eliminate the constant ringing of bells in train order offices and stations, a system of selector keys was installed and handled by a dispatcher at New Smyrna Beach. By this system, only the bell in the office called is rung, even though it has the other attributes of a party line.

The message Circuit serves practically every station on Carrier's main line and other offices and stations having business relations directly therewith. This circuit also was a "party line" circuit and in order to avoid the constant ringing of telephones that such a line would usually bring forth, it installed one set of selection keys at New Smyrna Beach and assigned an employe to listen in constantly and ring stations and offices requested. This selector key work was handled by clerks.

The Private Line Circuit was a single "party line" circuit. It was connected with twelve desks of the operating officials and was operated by calling the desk or person wanted by giving the assigned signal of the office called by pressing a push button. During the war, a serious overloading of these circuits occurred and the Carrier installed a Type H-1 Carrier System which consists of superimposing a carrier wave of radio frequency on a phy-

sically existing copper line circuit. This relieved the Private Line Circuit and permitted several additional offices to be cut in on the circuit. The push button method of calling offices on the circuit was retained. No message circuit telephones were removed and no positions were abolished.

It is claimed that the operation of the Private Line Circuit, since other offices have been cut into the circuit, is work belonging to telephone operators.

It will be borne in mind that no switchboard is employed in the operation of the Private Line Circuit. The person using the phone uses the push button to signal the office or station he wishes to contact. It is a trivial operation and is incidental to the use of the telephone. The operation is similar to cranking a party line phone or dialing an automatically operated telephone. The work is incidental to the position of the person using the telephone. It is not such that telephone operators could properly claim as belonging exclusively to their craft. This is so even if one employe in an office containing several phones on this circuit operates the push button for all calls going out of the office in connection with his other duties. No basis for an affirmative award exists.

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 the Employes involved in this dispute are respectively carrier and employes 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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 11th day of August, 1948.