

Award No. 4492

Docket No. CL-4075

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**

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Chicago, Rock Island & Pacific Railroad that:

(1) A. H. Neubauer, Baggage man at Iowa Falls, Iowa be paid one (1) call (two (2) hours at time and one-half) for each day worked since April 1, 1947, at the rate of Baggage man \$186.70 per month (add increase of \$31.62 effective September 1, 1947);

(2) The Relief Clerk and other Clerks who have worked the position of Baggage man at Iowa Falls, likewise be paid a call for each day worked on the Baggage man's position since April 1, 1947;

(3) The working of train No. 20 as to head end work, such as handling mail and baggage, be returned to employees covered by the Clerks' Agreement.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement between the parties to this dispute bearing an effective date of August 2, 1945.

Prior to April 1, 1947, the regularly assigned Baggage man, Mr. A. H. Neubauer at Iowa Falls, Iowa received a call to work train No. 20, handling the mail and baggage and other front end work on this train. The regularly assigned hours of the Baggage man are 10:45 P. M. to 6:45 A. M., train No. 20 due to arrive at Iowa Falls at 7:25 P. M.

Effective April 1, 1947, the Baggage man was informed by the Agent that he would discontinue working train No. 20 on a call basis and this work would be transferred to the Telegrapher-Operator on the second shift, an employee not covered by the Clerks' Agreement. The Baggage man filed a claim for a call, effective April 1, 1947, for each day this work was handled by someone other than employees covered by the Clerks' Agreement. The following is a reply from the Agent to Mr. A. H. Neubauer, dated May 15, 1947, declining his claim:

Mr. A. H. Neubauer
Iowa Falls, Iowa

"Iowa Falls, Iowa
May 15, 1947

Your claim for one call April 1st to April 30th account baggage work No. 20 handled by operator on duty instead of Neubauer

be performed by either class of employees, either while one or more employees of both classes were on duty, or while only one employee of one class was on duty. There has been no monopoly or exclusive right vested in either class, clerks or telegraphers, under any and all conditions to perform the type of station work involved in this controversy.

We maintain that it is manifestly an unjust burden upon this carrier to require it to pay the baggageman overtime or pay him a three hour call to perform what constitutes but a few minutes of work in handling the baggage and mail on Train No. 20 when there is working at the same time a telegrapher who is capable of and should perform this head end work. The baggageman, in his assignment on the last shift, has other work to perform and we require his services at that time to handle the baggage and mail on other trains arriving during his shift.

It was not only natural, but proper, under the Clerks' Agreement and Telegraphers' Agreement on this property, for the carrier to require the telegrapher on the second shift who was assigned to that position after Mrs. Hanley retired to perform the head end work on Train No. 20 just as Mrs. Hanley had performed this work without exception or complaint from the Clerks for a number of years during the time that her health and physical condition permitted her to perform it. The handling of the mail and baggage on Train No. 20 would have been performed continuously by the second shift telegrapher if it had not been that the carrier was confronted with a serious manpower situation in which it found it necessary to permit Mrs. Hanley to remain in service after she was physically unable to handle all of the duties of her position. We seriously urge that this action on the part of the carrier in consideration of one of its employees and in meeting a desperate manpower situation during the war period, should not prejudice the right of the carrier to require that the head end work on Train No. 20 be handled by the second shift telegrapher.

We respectfully petition the Board to deny this claim.

OPINION OF BOARD: In 1937, a telegrapher, Mrs. Georgia M. Hanley, was the regularly assigned second trick operator (4:00 P. M. to 12:00 midnight) at Iowa Falls, Iowa. A baggageman was also assigned (10:00 P. M. to 7:00 A. M.) and he handled traffic work on trains arriving on his shift. In January, 1941, the time of arrival of Train 20 was changed so that it no longer arrived during the baggageman's tour of duty and Mrs. Hanley was assigned to do the head end work on that train. From July 15, 1943 to August 25, 1943, the baggageman was called to do the head end work on Train 20 because Mrs. Hanley was physically unable to perform it. On August 25, 1943, the baggageman's assignment was changed (7:00 P. M. to 4:00 A. M.) so that he could do the work on Train 20 on his regular assignment. On April 1, 1947, Mrs. Hanley retired from service. Her position was bulletined and the occupant required to do the head end work on Train 20. The Organization contends that the head end work on Train 20 belongs to the Clerks and that the Agreement was violated when the work was assigned to the second trick telegrapher.

The record discloses that Mrs. Hanley began handling the head end work on Train 20 when the arrival time of that train was changed on January 7, 1941. She continued doing this work until she injured her arm on July 15, 1943. She was approximately 66 years of age at the time and this fact, plus the injury, disabled her to such an extent that she could not perform all the work of her position. The need for telegraph operators was so great at this time that Carrier retained her to perform the telegraph work and had the head end work of Train 20 performed by changing the baggageman's assigned hours so he could do it or by paying the baggageman a call for doing the work. When Mrs. Hanley retired from service on April 1, 1947, the position was bulletined and the head end work on Train 20 was again assigned to the second trick telegrapher's position.

The head end work on Train 20 is work that can properly be performed by Clerks. It is not, however, exclusively Clerks' work under all circum-

stances. It is the rule, long adhered to by this Board, that a telegrapher with telegraphic duties to perform may properly perform clerical work which is incidental or in proximity to his telegraphic work, in such amount as to fill out the telegrapher's assignment. It is the rule, also, that where the clerical duties become so great that the telegrapher cannot perform them, such excessive clerical work belongs to the Clerks.

In the present case, Mrs. Hanley was required to perform telegrapher's work. To fill out her assignment she was given the head end work on Train 20. We think this is in accord with the traditional rule. When Mrs. Hanley reached the point where she was unable to perform the head end work on Train 20, it became work for a clerk to perform. The rule is no different where the telegrapher is unable to perform the clerical work because of physical disability than where the volume increase has exceeded his physical capacity. Consequently, when Mrs. Hanley could no longer perform the head end work on Train 20, the Carrier was obligated to give it to a clerk. The record shows that it did, either by changing the baggageman's assigned hours or by giving the baggageman a daily call. When Mrs. Hanley retired from service, the position was given to an operator who could perform all the work of the position, including the head end work on Train 20. We think this work could properly be assigned to this operator to fill out his assignment as it had been done by Mrs. Hanley before physical disability prevented.

While Mrs. Hanley would ordinarily have been required to take a position in which she could perform all of its duties, the Carrier explains that the need for telegraphic operators was so great that they were obliged to retain her as an operator even though she could not perform all the service ordinarily required. When the emergency was over and a fully qualified and able operator was available, the Carrier restored the assignment to its former scope. This, we think, it could properly do. See Awards 523, 615, 638, 1566, 2334, 3003.

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 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 29th day of July, 1949.