

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Kansas City Southern Railway Company that:

1. The carrier violated the provisions of the Telegraphers' Agreement effective May 1, 1942, between the parties, when in reclassifying the agent position at De Ridder, Louisiana to that of agent-telegrapher on February 5, 1948, it converted the agreed to and established monthly rate of that position into an hourly rate of pay in a manner which reduced the monthly earnings of the incumbent of the agency at De Ridder below the salary established for such position by the wage settlement of September 1, 1947; and that
2. The hourly rate of pay for the agent-telegrapher position at De Ridder shall be computed by dividing the monthly rate of pay of \$352.02 in effect at the time the reclassification was made by 243 hours, thus establishing the hourly rate of pay for the position; and that
3. The hourly rate of pay so computed shall be made effective as of February 5, 1948, the date the De Ridder agency position was reclassified.

EMPLOYEES' STATEMENT OF FACTS: An agreement bearing date of May 1, 1942, is in effect between the parties hereto, which covers rates of pay and rules of working conditions between the parties to this dispute. As an act of economy, the carrier changed the exclusive agency position at De Ridder to an agent-telegrapher position effective February 5, 1948, without notice, conference or agreement, arbitrarily establishing an hourly rate of \$1.39 per hour and reducing the hours to six days per week, a reduction of approximately \$60.00 per month.

POSITION OF EMPLOYEES: De Ridder station agency has been filled as an exclusive agency position as far back as our records indicate, first appearing in our contract dated July 15, 1919. Prior to that time, this was an appointive agency not covered by any agreement. This position has carried the highest rate of any position on the Southern Division under our agreement. On February 5, 1948, the carrier reclassified this position to that of agent-telegrapher under Section 4-1 of the agreement and takes the position that it is A NEW POSITION, using Section 7-19 as basis for the hourly rate of pay established. The rules are as follows:

"4-2. Bulletins. Vacancies and new positions (other than those known to be temporary) coming within the terms of this

agent was established in order to enable the incumbent to get out among our patrons to assist the Traffic Department; but in the opinion of the Management the need for such assistance no longer exists.

I think this opinion is largely confirmed by what you have said regarding the amount of work involved: in other words, the duties and responsibilities of the position of exclusive agent had dwindled to the extent that such a classification was no longer justified."

After the above letters were written the General Chairman, in another and later conference, signified his willingness to withdraw his protest against reclassification, if we would increase the rate of the position to \$1.45 per hour. At first this request was denied, inasmuch as the rate of \$1.39 was properly established and our operating officers protested against such increase, on the basis that while there were more employees at De Ridder, the work required of and performed by the Agent-Telegrapher at Mansfield, a similarly situated station on that Division, was greater per man hour (See our Exhibit "B"); however, as a compromise, we offered to increase the rate to \$1.45 per hour, effective January 1, 1949.

This offer was declined by the General Chairman unless it was made retroactive to February 5, 1948. This we refused to do and our offer of compromise was withdrawn.

General Chairman cites no rules to support his position, but contends that Rule 4-1 does not provide for a "reduction in rate of pay, where the rate has once been established". There would be no point in reclassifying a position unless conditions had changed to such extent that such move was necessary and where such position is reclassified and put under the schedule, or removed therefrom, the rate of pay should be applicable to the new position, as provided in Rule 7-19.

Claim is now presented to this Board, in an effort to enforce the demand for retroactive adjustment in the rate.

Adjustments, increase or decrease, in wages are not within the jurisdiction of this Board.

Claim in connection with reclassification of Agency at Ashdown (also named in some of the correspondence—Exhibits) was withdrawn and is not involved in this claim.

Claim should, therefore, be denied and such action by the Board is respectfully requested.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to February 5, 1948, Claimant was assigned to the station agency position at De Ridder, Louisiana, on a monthly assignment. On the foregoing date, the Carrier reclassified the position to that of agency-telegrapher and assigned it an hourly rate which resulted in a reduction of Claimant's monthly income. The Organization contends that this violates the Agreement. The controlling rules are:

"Reclassified Positions. When a position of agent-telegrapher is reclassified to an exclusive agency position or when a position of exclusive agent is reclassified to an agent-telegrapher position, the employee assigned to the agency will remain on such agency if qualified. If not qualified he may exercise rights under Section 5-2 or revert to the extra list."

Rule 4-1, Current Agreement.

"Bulletins. Vacancies and new positions (other than those known to be temporary) coming within the terms of this agreement will be bulletined within five (5) days to the General Office, Kansas City, and to all offices on the division on which they occur

for ten (10) days, and will be awarded the senior qualified bidder within thirty (30) days from the date of vacancy. Notice of award showing names of all bidders, will be furnished the General Chairman, Local Chairman on the division, and all employees bidding on such vacancy.

In case no bids are received an employee from the extra list will be regularly assigned."

Rule 4-2, Current Agreement.

"Rates of Pay—New or Reopened Positions. The rates for new positions created and for positions reopened will be in conformity with positions similar as to location, duty and responsibility, on that division."

Rule 7-19, Current Agreement.

The agency position at De Ridder was excluded by specific rule from certain designated sections of the Agreement. See Rule 1-2, current Agreement. It was a monthly rated position without telegraphic duties. On February 5, 1948, the Carrier reclassified the position to that of agent-telegrapher which subjected the position to all rules of the Telegraphers' Agreement. The effect of Carrier's action was to abolish the agency position and to establish the new position of agent-telegrapher. This it had a right to do. Rule 4-1, current Agreement. Also see Award 2935. Ordinarily new positions must be rebulletined but under the express provisions of Rule 4-1 it was not necessary to do so if the employee assigned to the agency was qualified.

It being a newly created position, the rate of pay is to be determined by Rule 7-19. The Carrier fixed the rate of pay at \$1.39 per hour which was the rate paid on a similar position at Mansfield. An examination of the evidence shows that the position at Mansfield was comparable as to location, duty and responsibility as required by Rule 7-19. No position is pointed out by the Organization which better conforms to the requirements of the controlling rule. We think the position of the Carrier was correct in all respects.

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

That both parties to this dispute waived oral hearing thereon;

That the Carrier and the 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 31st day of March, 1950.