

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

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

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island & Pacific Railroad Company:

(1) That the Carrier violated and continues to violate the scope rule of the telegraphers' agreement when commencing November 24, 1947, it permitted or required employes not covered by said agreement at B Avenue, Cedar Rapids, Iowa, to perform communications service and block operation of trains by the use of the telephone, which is work covered by the telegraphers' agreement.

(2) That the Carrier shall be required to create and maintain appropriate positions of block operators at B Avenue under the telegraphers' agreement and assign the work of such positions to employes under the telegraphers' agreement.

(3) That such said positions of block operator shall be advertised and assigned under the governing rules of the telegraphers' agreement, and that any and all employes adversely affected by the violative act of the Carrier in assigning the work and duties of block operators to employes not covered by said agreement shall be reimbursed for all their money losses retroactive to November 24, 1947.

OPINION OF BOARD: Upon a previous consideration of the instant dispute, this Board issued its Award 4789. Reference is made to that Award for a summary of the facts leading up to its presentation to the Board in the first instance and for the reasons which impelled the Board to refer the same back to the property and the purposes of said referral. The parties have not been able to compose their differences but in an admirable spirit of cooperation have returned a joint stipulation to the Board resolving apparent conflicts of facts in the record and which now permits a proper disposition of the claim.

It is apparent, from the joint stipulation, despite the lengthy record in this docket that the issue involved boils down to a question of whether or not the use of the telephone by the switchtenders operating from the shanty at B Avenue near 4th Street and the nature of the telephone conversations between them and the towerman at 9th Avenue constituted an encroachment upon the scope of the telegraphers' agreement.

As we pointed out in our summary of the facts in Award 4789, the three involved positions of switchtenders were established for the purpose of ex-

pediting the movement of trains along 4th Street. It is clear that the telephone conversations between the switchtenders and the towermen at 9th Street were for the purpose of obtaining and transmitting information concerning the movement of trains in and out of the Cedar Rapids Yards. This exchange of information was necessary to a determination with respect to permitting such trains to move out of or into the yards so that movements would not result in the obstruction of intersections along 4th Street. Under timetable instructions authority with respect to the movement of trains was reposed in the towerman. It was agreed by the parties that prior to the establishment of the switchtender positions, employees of the carrier, other than those covered by the telegraphers' agreement were communicating with the towerman at 9th Avenue by telephone located in the yard office, asking information from them as to whether they should allow trains to proceed out of the yard and securing information as to incoming trains. We believe that this Board's Award 700 (without a referee) is authority for the proposition that such use of the telephone does not encroach upon the jurisdiction of the telegrapher. In this respect Award 1396 is also pertinent. Essentially the use of the telephone by the switchtenders after November 24, 1947 was in lieu of the same use as that made by the yard employees prior thereto.

In view of the above mentioned factors, it seems apparent that the claim cannot be sustained. Decision No. 24 of the Rock Island Adjustment Board and Award 943 of this Board relied upon by the employees in support of this claim were based upon inapposite factual situations. The principles there involved do not apply to the instant dispute.

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 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 Carrier did not violate the Agreement.

AWARD

Claims (1), (2) and (3) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 11th day of September, 1950.