

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
UNION PACIFIC RAILROAD COMPANY
(EASTERN DISTRICT)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Union Pacific Railroad Company, Eastern District:

(1) That the Carrier violated Rule 7 of the prevailing telegraphers' agreement when, without agreement with the General Chairman, it unilaterally changed the classification of the positions of agent-telegrapher at Amherst, Neb., and agent-telegrapher at Eddyville, Neb., to agent non-telegrapher effective April 1, 1949, and unilaterally reduced the rate of pay of these two positions from \$1.22 per hour to \$1.16 per hour; and

(2) That the classification of these two positions shall be restored to that of agent-telegrapher and the hourly rate of both positions restored to \$1.22 per hour, effective April 1, 1949—the date they were improperly reclassified and improperly reduced in rate of pay—and the incumbent employees of the positions retroactively reimbursed for the wage loss suffered.

EMPLOYES STATEMENT OF FACTS: An agreement bearing date November 1, 1947, as to rates of pay and working conditions is in effect between the parties to this dispute.

The positions of agent-telegrapher at Amherst, Neb., rated at \$1.22 per hour and agent-telegrapher at Eddyville, Neb., rated at \$1.22 per hour are covered by the said telegraphers' agreement.

Rule 7 of the prevailing telegraphers' agreement provides as follows:

"Article 2, Rule 7. **CHANGES IN POSITIONS AND RATES OF PAY.** Positions (not employees) shall be rated. Changes in classification of positions or rates of pay will be made only by agreement between the general manager and general chairman."

Without conference or agreement with the General Chairman, the General Manager informed the General Chairman in writing dated March 5, 1949, that effective April 1, 1949, that the Amherst and Eddyville stations would be changed from telegraph to non-telegraph. Concurrently with this change the rate of pay for these two positions was arbitrarily reduced by the Carrier from \$1.22 to \$1.16 per hour.

the changing of a station from a non-telegraph to a telegraph agency, or vice versa;

2. The reclassification of an agency from telegraph to non-telegraph automatically changes the titles of the positions and the rates of pay, and such titles and rates of pay are shown in Rule 4;
3. Reclassifications of positions and/or changes in rates of pay have been consummated by agreements. The Carrier has not violated Rule 7 of the agreement between the Union Pacific Railroad Company and The Order of Railroad Telegraphers effective November 1, 1947, and the claim must be declined, and
4. The changing of the Carrier's stations at Amherst and Eddyville, Nebraska, from telegraph agencies to non-telegraph agencies was in conformity with the provisions of Rules 4, 6 and 46(c) of the Agreement.

It has been demonstrated in the foregoing that the claim presented herein is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Effective April 1, 1949, Carrier reclassified its stations at Amherst, Nebraska, and Eddyville, Nebraska, from telegraph to non-telegraph stations. Concurrently the rates of pay of these two positions were changed from \$1.22 to \$1.16 per hour. The Organization contends that the change was in violation of Article 2, Rule 7, current agreement, which provides:

"Positions (not employees) shall be rated. Changes in classification of positions or rates of pay will be made only by agreement between the general manager and general chairman."

The two positions in question are listed in the Current Agreement as agent-telegrapher positions and their rates fixed at \$1.16. Article 2, Rule 3, Current Agreement. The Carrier states that due to the small number of trains operated on the branch line on which Amherst and Eddyville are located and the consequent small need for handling of train orders at these points, the two stations were reclassified as nontelegraph stations. The rate of pay was at the same time changed from \$1.22 to \$1.16 per hour. The Carrier asserts that it merely re-classified these stations as non-telegraph stations and the Rule 7 does not preclude the Carrier from so doing. We agree that the Carrier can reclassify its agencies except as such action may be limited by agreement. It may also abolish positions which are not needed. But it does not follow that by reclassifying an agency the positions are automatically changed and that Rule 7 has no application thereto. We point out also that Rule 7 is plain and definite. It is all inclusive and does not purport to apply to reclassifications of positions and rates of pay except in the case of a reclassification of the agency. There is no such exception. The rule means just what it says and the change of a position from agent-telegrapher to agent-non-telegrapher, with a consequent change in the rate of pay by the unilateral action of the Carrier, is violative of Rule 7. This is so whether the station involved is reclassified or not. We are obliged to say that the reclassification of positions and rates of pay such as we have here can be made only by agreement between the general manager and the general chairman as required by Rule 7.

The claim of the occupant of the position at Eddyville is sustained from April 1, 1949 to June 15, 1949, the date the violation was corrected as to him. The claim of the occupants of the position at Amherst is sustained until the violation is corrected.

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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of December, 1950.