

Award No. 6119

Docket No. TE-5790

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Dudley E. Whiting, Referee

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**GEORGIA RAILROAD**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Georgia Railroad that,

- (1) The Carrier violated the terms of the Agreement between the parties when beginning March 21, 1949, and continuing through June 18, 1949, without conference and agreement, it removed from the employes covered by said Agreement and from the Scope thereof, the duties of meeting trains, loading, and unloading LCL freight, express, and baggage between the station warehouses and trains arriving and departing Woodville, Maxeys, Stephens, Crawford and Winterville, Georgia, outside the regular hours of the agent assigned at these one-man stations, whose duties it had been to perform this work, and required members of train crews to perform said work.
- (2) In consequence of such violation the Carrier shall compensate the agents at each of the above one-man stations under the Call and Overtime Rules of the Agreement for each occasion and each day on which employes not covered by the Agreement performed this work.

**EMPLOYES' STATEMENT OF FACTS:** Woodville, Maxeys, Stephens, Crawford and Winterville, Georgia, stations involved in this claim are one-man agencies on the Athens branch of the Georgia Railroad which extends from Union Point to Athens, Georgia. The regular assigned hours of the agents are 8:00 A. M. to 5:00 P. M. with one hour off for lunch, with the exception of Winterville where the assignment is 7:45 A. M. to 4:45 P. M., with an hour off for the meal. One mixed passenger-freight train serves this line, making one round trip daily except Sunday. Prior to March 21, 1949, the lay-over point was Union Point, from which train departed 5:45 A. M., handling passengers and carload freight, arriving Athens 8:00 A. M. leaving Athens 9:30 A. M., handling passengers, carload freight doing necessary switching at local stations and checking in and out less carload freight. All agents at stations involved were on duty on the return trip, performing the normal and customary duties of an agent, including the loading and unloading of freight, baggage and express, placing it in the warehouse or cars, as the case might be. This was often done while the train crew did its work, including the necessary switching at the station, and in other cases jointly with the conductor, as is required by the rules of the Carrier.

If your Honorable Board should determine to sustain claim on LCL freight, then we ask that the days on which express only was handled be stricken from the claim, as any express handled was by virtue of an individual agreement between the Agent and Railway Express Company, as we do not require our employes to handle express. Bearing on this point we quote hereunder Article 15 of the Agreement, captioned "Express Handling" reading:

"Rates of pay fixed by this agreement are not intended to compensate employes for work performed in the handling of express as joint employes of the Railroad and Express Companies. Should commissions now paid by the Express Company at any office be discontinued, and the employe be required by the Railroad to continue to handle express, or business now handled by the Express Company, the employe will be properly compensated therefor by having his compensation, as Railroad Agent increased in an amount equal to that now received as Express commissions. At offices where express is not now handled, employes shall be likewise compensated in event they are required to handle it."

Under this rule the Agent cannot claim compensation where express only was handled and we ask that you so direct.

We feel we have shown conclusively that by tradition, custom and practice, LCL freight on the Athens Branch of the Georgia Railroad has always been handled from cars to warehouses and vice versa by train crews—that no allowance can be granted where express only is involved and the question of baggage is not involved.

The manner in which this freight was and is handled in no way violates the Scope Rule of The Order of Railroad Telegraphers or any other craft on the Carrier.

Claimants were compensated each day for eight hours service. A sustaining award would be merely a gift of three hours for each day claim is made for service they would not have performed had they been on duty. The claim is without merit and we respectfully request it be declined.

All data contained herein has been made available to Petitioners.

(Exhibits not reproduced).

**OPINION OF BOARD:** It is apparent from the record in this case that prior to March 21, 1949, train crews could not enter the warehouses at the stations named in the claim in the absence of the agent because there were no outside locks. It is also apparent from the operating rules and the evidence of prior practice that certain duties, in connection with the loading, unloading, placing in the warehouse and checking of LCL freight, were always performed by the agents at such stations.

Article 16 of the Agreement provides that practices not changed by the Agreement remain in effect. When the Carrier, on March 21, 1949, altered the long established practice at these stations, without consultation or agreement with the Organization, it violated the agreement.

It appears that claim is made for some days on which only express was delivered or picked up by the train crews. Article 15 provides that "rates of pay fixed by this Agreement are not intended to compensate employes for work performed in the handling of express." Since wage payments by the Carrier do not comprehend the handling of express, it would be contrary to the provisions of the Agreement to require the Carrier to pay employes for such service alone. As to those days the claim should be denied and otherwise it should be sustained.

**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 Carrier violated the Agreement.

**AWARD**

Claim sustained to the extent stated in the Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST:** (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 6th day of March, 1953.