

Award No. 7359
Docket No. TE-7176

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, 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 (Eastern District):

1. That Carrier violated and continues to violate the Agreement between the parties hereto, when commencing on January 13, 1953, and continuing thereafter, acting unilaterally, it changed the classification of the position of Agent, Concordia, Kansas.
2. That Carrier violated and continues to violate the Agreement between the parties hereto, when commencing on January 13, 1953, and continuing thereafter, acting unilaterally, it declared the position Clerk-telegrapher, Concordia, Kansas, to be abolished, when in fact the work of such position remained to be and was required to be performed.
3. That Carrier violated and continues to violate the Agreement between the parties hereto, when, on the 13th day of January, 1953, and continuing thereafter, it, acting unilaterally, consolidated and merged the position of Agent with that of Clerk-telegrapher at Concordia, Kansas, and caused and required the occupant of the position of Agent to perform the work, services and duties of the two separately negotiated positions.
4. That Carrier be required to restore position of Clerk-telegrapher, Concordia, Kansas.
5. That F. N. Van Wie, P. E. Hoopes and R. L. Holman were owners of regular positions and displaced therefrom, solely and proximately caused by the violative acts of Carrier hereinabove set out, shall be compensated for all wages lost and expenses, if any, incurred by reason of such wrongful displacement; that any and all other employes adversely affected by such violative acts shall be made whole for any such loss, including expenses, incurred thereby.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect an agreement between Union Pacific Railroad Company (Eastern District), hereinafter referred to as Carrier or Company and The Order of

It is hereby affirmed that all information and data herein set forth have been furnished to, discussed with, or are known to the Employees' Organization or the Claimants.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to January 13, 1953, Carrier had at Concordia, Kansas, two employees classified as follows:

Agent, monthly rated (Rule 2), no assigned hours, work days Monday through Saturday, Rest days: Sunday.

Telegrapher-Clerk, hourly rated (Rule 3), 8 A. M. to 5 P. M. (one hour for lunch) Monday through Friday, Rest days: Saturday and Sunday.

On January 7, 1953, Carrier's Assistant Superintendent, H. P. Jopling, in Kansas City issued the following order to Agent W. F. Jacobs at Concordia:

"Arrange abolish position telegrapher-clerk, Concordia, giving usual 5 days notice taking position off at close of shift Monday, Jan. 12th. Acknowledge. D-242".

This order was complied with and beginning January 13, 1953, the Agent was required to perform such duties as had previously been performed by the telegrapher-clerk. The Organization is pressing this claim, contending that Carrier's action was in violation of Rule 7 of the parties' Agreement of February 1, 1951, which is as follows:

"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."

We do not agree that there was either a change of classification or a change in rate of pay. Therefore, there has been no violation of Rule 7. The Carrier simply abolished a position which it decided was no longer needed. This in no way conflicts with the restrictions of Rule 7.

Agents are assigned to be in charge of such local offices. These monthly rated agents, covered by Rule 2, are not prohibited the use of telegraphic equipment as are those hourly rated agents in the small stations covered by Rule 4 of the parties' Agreement. The agent at Concordia, Kansas was and is required at times to perform telegraphic service. The record shows that this was done before as well as after the termination of the position of Telegrapher-Clerk. This Agent is covered by the Telegraphers' Agreement with the Carrier and his duties are not specifically restricted to exclude work which may have been performed by the Telegrapher-Clerk.

The language of Rule 7 does not say that the Carrier cannot abolish a position without agreement between the General Manager and the General Chairman. It only provides that **rates of pay and changes of classification** must be agreed upon. To sustain the claim now before us would, in effect, put us in the position of denying the Carrier the right to abolish jobs found to be uneconomical to operate. We do not think that such was the intent of the parties when they adopted Rule 7.

We find no basis upon which to sustain this claim.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1956.