

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dwyer W. Shugrue, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Eastern Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway System, that:

1. The Carrier shall be required to make an upward adjustment of 15 cents per hour in the rates of pay for the towermen positions at "AY" Tower, Argentine, Kansas retroactively to April 6, 1949, when incumbents of said towermen positions were required to operate 34 additional levers installed in the tower for the purpose of operating switches and signals governing the movement of trains entering or leaving Carrier's new Hump Yard and switching movements therein at Argentine, Kansas; and

2. The Carrier violated the Agreement between the parties when beginning June 12, 1951, it required the towermen at "AY" Tower to handle train orders and on the same date required them to assume the responsibility and perform the work of directing the movement of trains against the current of traffic on main line tracks and thereafter failed to apply the proper classification to these positions and adjust the rate of pay in accordance with the Agreement; and

3. The Carrier shall now be required to establish a basic rate of \$2.00 per hour for these positions retroactive to June 12, 1951.

EMPLOYES' STATEMENT OF FACTS: Agreements between the parties hereto, bearing effective dates of December 1, 1938 and June 1, 1951, are in evidence.

Argentine, Kansas is located just west of Kansas City, Missouri on this Carrier's property. The Santa Fe Railroad is composed of a vast network of main and branch lines reaching from Chicago, Illinois to Los Angeles, San Diego and San Francisco, California on the west, Galveston, Presidio and El Paso, Texas on the south and Denver, Colorado on the north. All cars or trains moving to or from any part of Carrier's system and its connections destined to or through Kansas City, Missouri, pass through Argentine, Kansas. Stated differently Argentine is the bottle neck through which all cars pass to

All that is contained herein has been both known and available to the Employees or their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: The basic issue involved in this docket is similar, although the factual situation is somewhat different, to that presented in Awards 7440 and 7441, contemporaneously decided. The issue is whether or not the assignment of operating 34 additional levers controlling switches and signals would require a finding by the Board that the duties of the claimants were so changed as to constitute new positions thus bringing into operation Article II—Classification, New Positions, Etc. which reads:

“(a) Where existing payroll classification does not conform to the scope of this schedule, employees performing service in the classes specified therein shall be classified in accordance therewith.

“(b) When new positions are created, compensation will be fixed in conformity with that of existing positions of similar work and responsibility in the same seniority district.”

During 1948 Carrier commenced construction of a Hump Retarder Yard at Argentine, Kansas. Prior to the completion of the Hump Yard claimant Towermen, assigned to AY Tower, Argentine, among certain other duties, handled 42 levers operating signals and switches controlling train movements on main line tracks and in west bound receiving yard. After construction of the Hump Yard 34 additional levers, installed in “AY” Tower, were required to be handled by claimants. The 76 levers controlled train movement on main line tracks, movement entering or leaving the Hump Yard and inter-yard movements.

It is significant that at no time do employees contend that the additional duties, the operation of a greater number of levers, was work of a nature not properly assignable to Towermen. The Agreement contains no provision requiring pay adjustments for increased duties and responsibilities and the rule relied upon applies only “when new positions are created”. This record, granting an increase in work, will not sustain a finding that the character of claimants positions was so altered as to create the establishment of new positions.

The Board is not authorized to establish rates of pay or otherwise rewrite contract provisions. If a higher rate of pay is requested because employees feel that additional duties are in fact of sufficient proportion to entitle them to that higher pay they are relegated to the procedures and provisions contained in Section 6 of the Railway Labor Act. See Awards 7083, 7093 and 7170.

Having disposed of paragraph (1) of the claim we now consider paragraphs (2) and (3) together. The Agreement violation set forth in (2) and its correlative request for remedy in (3) were first brought to the attention of the Carrier in a letter dated May 6, 1954 which attempted to amend the original claim by the inclusion of new matter requesting an additional monetary adjustment. The carrier refused amendment to a claim which had already been progressed to and handled by the Carrier's highest officer designated to handle such matters. The employees have attempted to expand the claim beyond its original scope. The Board finds that (2) and (3) were not handled as required in Circular No. 1 of the Rules of the Board nor by Article V of the Agreement and will dismiss them without prejudice should employees see fit to progress a new claim under applicable procedures.

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 Employes involved in this dispute are respectively Carrier and Employes 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 and dismissed without prejudice in conformity with the findings and opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1956.