Award No. 8460
Docket No. TE-8147

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Delaware, Lackawanna & Western Railroad that:

1. The Carrier violated the Scope Rule (Article 1) of the prevailing Telegraphers' Agreement when, effective November 25, 1947, acting alone, it removed from the Agreement and from employes covered by said Agreement, the work of operating signals and switches by means of levers from a central point at Chenango Forks, New York, and transferred said operation to employes not covered by the Telegraphers' Agreement at Binghamton, New York;

2. The work of operating the signals and switches at Chenango Forks by means of levers from a central point shall be restored to the Telegraphers' Agreement and be performed by employes covered by said Agreement; and

3. Pending the restoration of this work to the Telegraphers' Agreement and to employes covered by said Agreement, the Carrier shall pay a day's pay to the senior employes not working on each day on which such service is performed by employes not covered by the Telegraphers' Agreement.

EMPLOYES' STATEMENT OF FACTS: An Agreement by and between the parties, referred to herein as the Telegraphers' Agreement, bearing effective date of November 1, 1947, is in evidence; copies thereof are on file with the National Railroad Adjustment Board.

The Telegraphers' Agreement lists at Chenango Forks three "towerman" positions. The primary duty assigned to and performed by the incumbents of said positions, were the normal and regular duties of towermen or levermen (synonymous terms), viz., operating interlocked switches and/or signals by means of levers from a central point.

known and consequently not contemplated by the signatories to that agreement.

* * *

"The work of a towerman or leverman is necessarily restricted in the scope of its operation to the vicinity of the tower. A CTC operation is handled from a central point and controls large sections of a railroad line. Its scope of operation is much greater.

* * *

"The dispute will, therefore, be remanded for negotiation between the Carrier, the Telegraphers and the Dispatchers and in case of failure, the **National Mediation Board and not this Board constitutes proper forum** for its final settlement." (Emphasis added.)

In Award 5374 this Board said:

"Since 1945 the parties have been afforded two opportunities by this Division to settle the question involved herein through collective bargaining (Awards 2972, 3716), but the controversy remains unresolved. Here we are confronted with a 284 page docket but again, as in the two previous instances, broad, comprehensive findings are sought in settlement of any important overall controversy brought about by the advent of the centralized control traffic system. Such determination is requested upon a record which is hardly representative of general operations on this property. To consider this isolated case upon its peculiar facts, undoubtedly would invite further submissions **with a result that the Division rather than the parties through collective bargaining, ultimately would evolve rules to govern the parties in connection with CTC operations. Such is not the intended function of this Board."**

On this Carrier, too, the Board has left no doubt that it is not the intended function of the Board to evolve rules for the government of the parties in connection with CTC operations.

Laches, unreasonable delay and the opinion of this Board that the matter is one to be resolved by the parties themselvees all bar the claim in this case.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves the same property, parties and issue as those in Docket TE-8145. Award No. 8458 disposed of the issue in that docket and is controlling here.

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 is without jurisdiction to determine the dispute.

AWARD

Claim remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 16th day of September, 1958.