

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Central Railroad of New Jersey, that:

1. Carrier violated the Agreement between the parties when on December 5, 1956, acting alone, it abolished the first and second shift towermen positions at "NA" Tower, Newark, New Jersey while a substantial part of the work of the second shift position remained to be performed. And, concurrent with said abolishments, Carrier arranged for the performance of said work by suspending occupant of the first shift towerman's position from 1:05 P. M. to 2:05 P. M. in order to extend his hours of service to cover the work of the abolished position.

2. Carrier shall, because of the violation set forth above, properly assign the occupant of the first shift towerman's position at "NA" Tower, Newark, to a shift of eight (8) consecutive hours in accordance with the provisions of Article 20.

3. Carrier shall restore the second shift towerman's position and Cycle Relief Position No. 26 at "NA" Tower to the Agreement and compensate the former occupants thereof, L. Singer and I. G. Ferry, for any loss of wages sustained due to the improper abolishment of their respective positions, and in accordance with the provisions of Article 22, until the violation is corrected.

4. Carrier shall restore R. F. Boorth, C. Carpini, R. Long, E. H. Gilbert, J. Fasule, S. B. Keisler and N. Pausur to their former positions from which displaced due to Carrier's improper abolishment of the positions in question and compensate said employees for any loss of wages sustained thereby in accordance with the provisions of Article 22 of the Agreement until the violation is corrected.

positions. Further, the claim as now presented to your Honorable Board states the Carrier abolished the first trick and second trick towerman positions at "NA" Tower while a substantial part of the work of the second trick position remained to be performed, and that the Carrier arranged for the performance of certain work by suspending the occupant of the first trick from 1:05 P. M. to 2:05 P. M. in order to extend his hours of service to cover the work of the abolished position. Also, that the Carrier shall assign the occupant of the first trick to an eight hour trick and restore the second trick Towerman's position and cycle relief position and compensate the former occupants therefor, as well as restore other named claimants to their former positions from which displaced and also compensate them therefor.

It has been the position of your Honorable Board that where a claim as first presented was changed during the course upward from the Superintendent to the Assistant Vice President to include additional items, such is not in accord with the Railway Labor Act (see Awards 1314 and 5077). Therefore, it is the position of this Carrier that inasmuch as the claim presented to your Honorable Board is not the same as that progressed throughout the various stages of handling on this property, the Board lacks jurisdiction to consider the claim as submitted and it must therefore be dismissed.

However, should the Board decide that this case will be decided on its merits, it is the position of this Carrier that the claim should be denied in its entirety for the reasons contained herein.

The Carrier affirmatively states that all data contained herein has been presented to the employes representatives.

OPINION OF BOARD: This is a dispute between The Order of Railroad Telegraphers and The Central Railroad Company of New Jersey.

The Carrier abolished the second trick towerman's positions at "NA" Tower and changed the first trick from 7:10 A. M. to 5:50 P. M. with 12:05 to 1:05 for lunch and 1:05 to 2:05 time off, but paid for.

There are four parts to the Claim. 1, 3, and 4 fail for lack of proof. (There is no evidence as to the time of second trick).

Part 2 of the Claim "ekes" through. We believe it survives as it was identified in the original claim.

Consequently the issue simply becomes a matter of interpreting the meaning of Article 25 (c).

"(c) Employes will not be required to suspend work during regularly assigned hours, or suspend work to absorb overtime.

Award 9755 interpreted the same rule wherein it was stated: "Employes will not be required to suspend work during regular hours." Means what it says. We concur with the opinion expressed.

For the foregoing reasons, we believe the Agreement was violated.

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 violated.

AWARD

Parts 1, 3 and 4 dismissed. Part 2 sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1962.