

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE NEW YORK CENTRAL RAILROAD COMPANY
(Western District)

STATEMENT OF CLAIM: Claim of the General Committee on the New York Central Railroad, Western District, that:

1. The Carrier violated the Memorandum of Agreement of February 19, 1927, revised January 30, 1931, when it failed and refused to transfer the positions covered by the Telegraphers' Agreement at its Passenger Station known as "KT" Office, Kankakee, Illinois, on August 1, 1956, from the New York Central Railroad, Southern District to the New York Central Railroad, Western District.

2. The Carrier violated Article 6 of the Agreement between the parties when it failed to disallow a money claim within 60 days from the date same was filed, made when the positions were not transferred.

3. Carrier shall be required to compensate senior idle employe on District No. 7, extra in preference, on each shift and on each date starting with August 1, 1956, that the Memorandum of Agreement of February 19, 1927 was violated, as claimed in Item No. 1 above.

NOTE: The senior idle employe will be determined by a joint check of the Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: There is a Memorandum of Agreement in effect between the parties reading:

"(a) When the operation of a division or any part of a division of the New York Central System Lines is taken over by another New York Central System Line, the incumbents of the positions covered by the Telegraphers' Agreements thereby affected will retain

3. The Carrier has offered, and is still willing, to apply the principles of the Consolidation Agreement to the positions in KT Office provided both interested Committees of the Telegraphers' Organization agree to do so.
4. The Organization has not observed the requirements of the Time Limit on Claims Rule, Article 6 of the Agreement, through failure to identify individual claimants as required by the Rule.
5. The Carrier did comply with the Time Limit on Claims Rule, Article 6 of the Agreement, by properly denying the money claims as required by that Rule.
6. Carrier contends the claim should be dismissed because the claimants have not been identified and because the subject matter is a jurisdictional issue which should be settled within the Organization; if not dismissed, it should be denied for lack of merit.

All evidence and data set forth in this statement have been considered by the parties in conference.

(Exhibits not reproduced.)

OPINION OF BOARD: Claims here are presented to this Division on behalf of employes, by the General Committee, representing the Western District, concerning the alleged failure of Carrier to transfer Telegrapher positions for "KT" Office, Kankakee, Illinois, Southern District to the Western District, on August 1, 1956. We will discuss each phase of the Statement of Claim, in numerical order.

The Carrier involved here has divided its property into five districts, with each district having a separate Agreement between the Carrier and the Telegraphers Organization. The Western and Southern Districts are concerned here, and both operate in and out of Kankakee. The Western District known as the Kankakee Sub-division covers the property from South Bend, Indiana to Zearing, Illinois, while the Southern District, operating at Kankakee, is the westerly terminus of this Indiana Division, a segment of the Southern Division. Trains between Kankakee and Chicago operate over trackage of the Illinois Central Railroad, and is not in dispute here.

On August 1, 1956, Carrier determined to transfer supervision of the employes working under the Southern District, Indiana Division Superintendent, to the Western District Superintendent at Chicago. The record here does not show that there was any change made affecting the employes of either the Western or Southern Districts, the employes of each Division have no added or less duties to perform. The only change made in regard to supervision of the employes, but no change was made as to working conditions whatsoever, and the two Districts continued to operate as separate entities, as provided by the separate Agreements.

When the change in supervision was made, the Western District through their Local Chairman, made claims to Carrier, that under Article 28 (a) Consolidation Rule, the change in supervision made by Carrier, constituted a violation of the Agreement between the parties, and on the premise that the positions at KT Office, were now applicable to the Western District super-

vision, and became a part and parcel of the Western District Agreement, and that the positions at KT Office became subject to the Agreement, resulting in a violation of the seniority rights of employees of the Western District, to assume the positions at KT Office, caused by the failure of Carrier to allow Western District employees to take over the KT Office.

We are of the Opinion that Article 28 of the Agreement before us, has no application to the facts before us. There is no evidence that Carrier violated Article 28, with respect to a consolidation of the Western and Southern Divisions. There is no evidence here that any employees on either District were affected in any manner. The only change brought about by the action of Carrier, was on August 1, 1956, when it changed its method of supervision at Kankakee and placed such supervision in the Superintendent of the Western District at Chicago, over all employees of the Telegraphers Organization at Kankakee. This change in no way affected Western District employees. Certainly the requirement for Southern District — Indiana Division employees to send time reports to the Superintendent Western District, Chicago, does not constitute a consolidation as contemplated by Article 28 of the Agreement, and is not applicable here. All Southern District telegraphers at Kankakee report to the Chief Dispatcher at Indianapolis, as they did prior to August 1, 1956. As above stated the only change made by Carrier, was a requirement for Southern District telegraphers to send time reports to the Superintendent, Western District in Chicago, in order to curtail a duplication of supervisory details for convenience of the Carrier. This action certainly does not violate the provisions of the Consolidation Rule, Article 28.

Claim designated as No. 1 should be denied in its entirety.

From a thorough review of the record here before us, it is interesting to note, that the claims here before us are on behalf of Western District employees, and the employees covered by the Agreement on the Southern District — Indiana Division took no part in the discussions, except at a conference between Carrier and the General Chairman, Western District. No claims or disputes have arisen on behalf of Southern District employees, stemming from Carrier's action to effect the change in supervision of employees under the Southern District Agreement.

In reference to designated Claim No. 2, the Organization contends Carrier violated the provisions of Article 6 (a) and (c) in that it failed to disallow or deny the claims within 60 days, as provided by the rule. The rule in paragraph (a) also provides that all claims or grievances, must be presented in writing by or on behalf of the employee involved. No employees involved here are named or identified as proper Claimants. Carrier contends that it is the responsibility of the Organization or employees to properly process claims as required by Article 6 (a). The claims here do not meet the requirements of Article 6 (c), and should be dismissed. There is evidence here that is in conflict, concerning whether or not Carrier did or did not deny the claims as alleged, under Article 6 (a). This we cannot resolve from the record before us, and must dismiss such money claims.

Designated Claim No. 3 and Note, must likewise be dismissed for reasons stated in the foregoing Opinion.

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 Carrier did not violate the Agreement.

AWARD

Claim No. 1 denied. Claims No. 2, 3 and Note dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of April 1963.