

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**THE NEW YORK, CHICAGO AND ST. LOUIS  
RAILROAD COMPANY**

**(Wheeling and Lake Erie District)**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the New York, Chicago and St. Louis Railroad (Wheeling and Lake Erie District) that:

1. The Carrier violated and continues to violate the Agreement between the parties when, at Fremont, Ohio, it requires or permits employes not covered by the Telegraphers' Agreement to handle (transmit and/or receive) messages, orders, or reports of record over the telephone.

2. The Carrier shall, because of the violations set forth above, compensate the senior idle telegrapher, extra in preference, a day's pay at the rate of the abolished telegrapher position at Fremont, Ohio, adjusted to current rates, for each eight (8) hour period around the clock, commencing on August 7, 1956 (60 days prior to filing of this claim) in which the aforementioned communication violations occur. Such information to be secured by a joint check of Carrier's records.

**EMPLOYEES' STATEMENT OF FACTS:** There is in evidence an agreement by and between the parties to this dispute effective, as to rules, February 1, 1952, and as to rates, effective February 1, 1951, and as revised.

In an Agreement between the parties effective as to Rule, April 1, 1938, and effective as to Rates, August 1, 1937, at Page 14 is listed the following positions then in existence at Fremont, Ohio:

|                                  | Hour rate<br>(cents) |
|----------------------------------|----------------------|
| Fremont— Agent .....             | 83.25                |
| Fremont— Telegrapher-Clerk ..... | 70.25                |

have held that the Carrier should not be expected to develop claims for unnamed employees on unspecified dates.

All that is contained herein is either known by or available to the Employees.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The present claim was instituted by a letter dated October 6, 1956. When that claim was denied by Carrier on October 30, 1956, the Carrier, among other things, asserted that a proper claim had not been filed because the Organization had failed to identify the Claimants as required by Article V and so notified the Organization, thereafter, at each level of progression on the property. During the progress of the claim there is no indication in the Record that there was any further identification of the Claimant other than that contained in the Statement of Claim.

The Statement of Claim is as follows:

"2. The Carrier shall, because of the violations set forth above, compensate the senior idle telegrapher, extra in preference, a day's pay at the rate of the abolished telegrapher position at Fremont, Ohio, adjusted to current rates, for each eight (8) hour period around the clock, commencing on August 7, 1956 (60 days prior to the filing of this claim) in which the aforementioned communication violations occur. Such information to be secured by a joint check of Carrier's records."

In Award 11667 (Rinehart), involving the same property and the same parties, there was a Statement of Claim similar to the one in the instant case. It was held in that Award that it was "unnecessary to name the Claimant where he is so specified or designated the Carrier may identify him by its records." In support of this statement Award 10533 (Mitchell) and Award 10576 (LaBelle) are cited. An examination of these awards discloses that in neither of the Statements of Claim contained therein is there an identity to that contained in Award 11667 and it is debatable as to whether or not the awards cited support Award 11667.

In contrast to the foregoing, the language contained in Award 10458 (Wilson) which requested Carrier be required "to compensate senior idle telegrapher (extra in preference)" is identical to that used in the Statement of Claim in Award 11667 and the present case. It was the Opinion of the Board in that case (10458):

"In our opinion the claim herein filed does not meet the requirements of Article V, Section 1 (a) of the National Agreement of August 21, 1954 effective between the parties in that the Claimants are not specifically named nor are they easily and clearly identifiable in this case. Therefore, the claim must be dismissed."

Award 10458 has been followed in Award 11066 (McMillen); Award 11284 (McMahon) and Award 11490 (Hall).

In Award 11038, Referee Robert O. Boyd, an experienced Referee, made the following pertinent comment:

"It is clear that the rule (Article V) does not specifically require that the employee involved must be named. Certain prior awards have

found claims valid where the Claimant is not named, but his identity is readily ascertainable. In Award 9205 (Stone) the claim was for 'the senior idle Telegrapher, extra in preference, on the Champlain Division seniority roster.' In that award the Opinion stated 'while not named, he (Claimant) was so described that he could readily be identified by the Carrier from its roster without further evidence.' This standard was not present in the claim considered by the Division in Award 10458 (Wilson) where the claim was for the senior idle Telegrapher (extra in preference) and further requested a joint check of the records to determine the names and amounts due the several employees. The Division found such claim invalid under the rule.

\* \* \* \* \*

"These awards, and others which have also been examined, disclose that Article V does not require that the 'employee involved' be named, but he must be so described as to be readily identifiable. As was said in Award 9205 the Claimant must be identified, if not named, in such manner as not to require further evidence. The reason for this is that the description of the employee involved ought not to give rise to a further dispute as to his identity."

It is our considered judgment that we cannot accept Award 11667 as a precedent controlling in the present matter, but in accordance with other awards herein cited we must find that the Claimants have not been readily identified as required by Article V. For the foregoing reason the claim must be dismissed.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 has not been violated.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1963.