

Award No. 12349
Docket No. TE-11191

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE NEW ORLEANS AND NORTHEASTERN
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New Orleans & Northeastern Railroad that:

1. Carrier violated and continues to violate the agreement between the parties when beginning January 1, 1958 it failed to fill the hourly rated first trick telegrapher-clerk position at Slidell, Louisiana on Mondays through Saturdays of each week and transferred the work of the position to the monthly rated Agent.

2. Carrier shall be required to compensate:

(a) P. L. Meitzler, regularly assigned incumbent of the first trick telegrapher-clerk position, for all wages lost and reimburse him for any expenses incurred.

(b) S. Livings, Agent Slidell, a day's pay at the telegrapher-clerk rate for each day he is required to perform the work of that position in addition to pay already received.

(c) All other employees displaced as a result of the violation for all wages lost. The names and amounts due each employee to be determined by joint check of Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Slidell, Louisiana is a station on this Carrier's Lines. Prior to January 1, 1958 the following positions under the agreement existed at that station:

Station Agent—(x)—monthly rated, no assigned hours, 6 days per week Sunday rest day. Not relieved on rest day.

From an analysis of the record the authorities cited and the reasons stated herein, we conclude that the claim should be denied."

Whether the position of first-trick clerk-telegrapher at Slidell, Louisiana would be abolished and the remaining duties assigned to the agent-telegrapher was a prerogative of management. The work having decreased, it was the duty of the management to reduce expenses so as to operate the railroad with efficiency and economy. In doing so, it was naturally necessary to abolish the position of first-trick clerk-telegrapher at Slidell.

Then, too, the assignment of the work necessary for its operation was the sole responsibility of the Carrier. Under no provision contained within the four corners of the agreement in evidence has the Carrier negotiated away its right to abolish positions and rearrange the work. In fact, the agreement clearly recognizes the management's right to do this. See Rules 27 (d), (e) and (f).

Thus the evidence is conclusive that Carrier's action in abolishing the first-shift position of clerk-telegrapher at Slidell, Louisiana, and assigning the remaining telegraphic duties to the agent-telegrapher, was not only in strict conformance with the terms of the Telegraphers' Agreement in evidence and has been so recognized by the ORT, but was sanctioned by prior awards of the Board dealing with such matters.

CONCLUSION

Carrier has conclusively shown that:

- (a) Claim and demand here made are not the same as those presented and handled in the usual manner in accordance with agreement rules, the Railway Labor Act and Rules of Procedure of the Board and are barred, the Board has no jurisdiction over them and should, therefore, dismiss them for want of jurisdiction.
- (b) The effective Telegraphers' Agreement has not been violated as alleged and no provision contained therein supports the claim and demand which the ORT here attempts to assert.
- (c) The point here at issue has long since been conceded by the ORT. Positions of clerk-telegrapher have been abolished at numerous locations on Southern Railway System lines throughout the years, and the remaining telegraphic and other duties absorbed by agent-telegraphers employed at such stations. The same arrangement has heretofore been made at Slidell without claims or complaints from the employees or their representatives.
- (d) Prior awards of the Adjustment Board dealing with similar situations have denied claims identical in principle and sanctioned Carrier's taking such action.

Claim and demand being barred and the Board having no jurisdiction over them should dismiss them for want of jurisdiction. However, if, despite this fact, the Board assumes jurisdiction, it cannot do other than make a denial award.

OPINION OF BOARD: It is the opinion of the Board that the Agreement between the parties has not been violated.

On January 1, 1958, the first trick clerk-telegrapher at Slidell, Louisiana was abolished by the Carrier. The duties were assigned to the agent telegrapher. Such agent telegrapher had been previously designated as station-agent, a monthly rated employe, but had been reclassified as agent-telegrapher on May 20, 1954. After reclassification, he was continued as a monthly rated employe because the agreement prohibits the reclassification of positions for the purpose of reducing rates. Carrier asserts, and it is undenied, that a conversion to hourly rates would have reduced the rate of pay of the agent-telegrapher.

Carrier asserts that it has the right to abolish the position and rearrange the work unless restricted by the terms of the agreement and cites past practice and numerous awards supporting their position. Employes cite no provision in the agreement which, in the opinion of the Board, would prevent the Carrier from abolishing the position of first trick clerk telegrapher at Slidell and assigning such work to the agent-telegrapher in the same office.

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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of March 1964.