

Award No. 12758

Docket No. TE-11601

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Railway System, that:

1. Carrier violated Rule 1 (Scope Rule) and Rule 18 (Seniority Rule) of the Telegraphers' Agreement when, effective Friday, May 30, 1958, it unilaterally abolished the position of Second Trick Clerk-Telegrapher, Gastonia, N. C., also abolished was the Relief Group Number Seven (7) and assigned the duties previously performed by these employees under the Telegraphers' Agreement, to employees of Clerks' Agreement who are outside of the scope of the Telegraphers' Agreement.

2. Carrier shall now compensate Telegraphers W. G. Cash, Jr. and J. J. Youngblood, at pro rata for each day so long as this violation continues. Carrier shall also compensate any employee under the Telegraphers' Agreement for time lost or expense incurred as a result of this abolishment violation. The hourly rate effective when abolished was \$2.29 per hour, equaling \$18.32 for each eight hour day. Further, the position of Second Trick Clerk-Telegrapher, Gastonia, N. C., and Relief Group Number Seven shall be restored as they were prior to May 30, 1958.

EMPLOYEES' STATEMENT OF FACTS: At Gastonia, North Carolina prior to May 30, 1958 this Carrier maintained a separate freight house and passenger station. The freight house building was located approximately 300 feet from the passenger station and across one of the city streets. At Gastonia there were four negotiated positions under the Telegraphers' Agreement. The freight agent, who was stationed at the freight house and under the operating rules of this Carrier, is in charge of all railroad facilities at that point, was a telegrapher. This freight agent or station agent was a monthly rated position and the occupant was actually in charge of all the Company business and affairs in Gastonia but devoted his time and effort to the freight office leaving the passenger work and its responsibility to the ticket agent in the passenger station. The Carrier also had at the freight station a chief clerk under the Clerks' Agreement as well as a rate clerk and cashier and yard clerk or general clerk under the Clerks' Agreement. The Carrier also had a warehouse clerk and loader under the Clerks' Agreement, as well as a

Charlotte, N. C., and was in connection with the overtime and number of cars handled by the switcher at Gastonia. The telephone message had nothing whatever to do with train orders or train movements. The Assistant Director of Labor Relations pointed out that such a telephone message to Air Line Junction did not constitute a violation of any rule or provision of the Telegraphers' Agreement, and that employees of the telegraphers' class or craft did not have the exclusive right to use telephones. The terms "communication of record" and "message of record" cannot be found in the effective Telegraphers' Agreement. Moreover, it was pointed out to the General Chairman that the information had been telephoned in the past purely as a matter of convenience, not from any urgency or necessity standpoint, and that it could just as readily have been mailed to Air Line Junction all along. In fact, the clerk on duty was already sending it by mail in lieu of by telephone. Thus, it is evident that this alleged "message" is not a type of work reserved exclusively to employees of the telegraphers' class or craft.

In conclusion, carrier has shown that (1) employees of the clerical class or craft are "involved," and as a prerequisite to the Board's taking jurisdiction, notice to employees of that class or craft is required before the Board can assume jurisdiction of the claim which the ORT here attempts to assert; (2) the Telegraphers' Agreement has not been violated, as alleged, and the claim is not supported by any rule contained therein; and (3) telegraphers at Gastonia have not been used exclusively to perform ticket work, as a position of ticket clerk, covered by the Clerks' Agreement, existed for many years prior to November 1956.

The evidence of record discloses that there was no violation of the agreement, and that the work in question is not reserved to telegraphers. For the reasons set forth herein, carrier respectfully requests that the claim be denied in its entirety.

OPINION OF BOARD: The situation and rights of the parties are in essential respects the same as determined by Award No. 12757 of this Division, and for the reasons set forth therein this claim must be denied.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of July 1964.