

**Award No. 12991**

**Docket No. TE-11676**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Levi M. Hall, Referee**

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**PACIFIC ELECTRIC RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Pacific Electric Railway, that:

1. The Carrier violated the parties' agreement when on October 29, November 10, and November 12, 1958, and periodically thereafter, it deprived the regularly assigned occupant of the Agent's position at Bellflower, California, C. D. Hileman, and or his successor, of the work of signing bills of lading and waybilling carload shipments, and related work, from Paramount, a non-agency station assigned to Bellflower, outside his assigned hours Monday through Friday, and on Saturday and Sunday (rest days of claimant) and on holidays, by assigning said work to conductors and to employees not covered by the agreement at another station.

2. The Carrier shall, because of the violation set out above, commencing on October 29, 1958, and so long thereafter as the violations complained of continue, compensate C. D. Hileman, and/or his successor, one special "call" for each violation. The number of such violations are to be determined by a joint check of the Carrier's records.

**EMPLOYES' STATEMENT OF FACTS:** There is in evidence an agreement by and between the parties to this dispute effective on August 1, 1955 (except as otherwise indicated) and as amended. Addendum No. 1 is the wage scale. Listed in the wage scale is the agent's position at Bellflower, California. This same listing appears in the first agreement between these same parties effective September 16, 1934. During the period in which this agency has been subject to a collectively bargained agreement, the agent at this station has performed the overtime work accruing to the station in connection with the signing of bills of lading and the waybilling of shipments outside of his assigned hours, including such work arising on Saturdays, Sundays, and holidays at his station.

The Carrier maintains freight lines in southern California, with Redlands California, the eastern terminus. The Carrier's lines link most of the important cities of southern California into a network of railroad operation serving this industrialized area.

Organizations." The Board stated in part: "Past awards have held that work, by custom performed by one craft, should remain with that craft, even though it is not exclusively their work. This would appear to be solid doctrine only where it did not create premium pay. However, where the carrier can have the work content performed by the alternate craft without premium work, it would appear the carrier can do so unilaterally in the public interest. Thus a carrier, in a one-man station can change its status by employing a member of the Clerks' organization (See Awards IBID) and do so unilaterally. The same freedom of action would apply in shifting call work performed by the telegraphers to trainmen where the scope rule contract was not controlling. Should both of the alternate crafts require extra hours, then a showing of public necessity would be required. The question of public interest, being contrary to contract provisions, is not here involved."

The carrier states factually that the above opinion previously expressed by the Board is equally applicable to the instant dispute. The claim involved herein requests premium pay.

### CONCLUSION

The carrier asserts that the purported claim in this docket is entirely lacking in either merit or agreement support and, therefore, requests that the claim be denied in its entirety.

(Exhibits not reproduced.)

**OPINION OF BOARD:** C. D. Hileman was the regular assigned Agent at Bellflower, California. It is the contention of Claimant that:

"Prior to October 24, 1958, the work of signing bills of lading and the preparation of waybills to cover carload shipments from Douglas Oil Company, Paramount, after regular assigned hours, Monday through Friday, as well as on Saturday, Sunday and holidays, when necessary, was performed by the Agent at Bellflower on a call or overtime basis. However, effective with the issuance of Station Circular No. 140 dated October 24, 1958, signed by Mr. R. Moebius, Assistant General Manager, the work of signing bills of lading was diverted to train service employees and the work of preparing waybills was diverted to clerical employees at Los Angeles.

The above work continues to be performed by the Agent at Bellflower during his regular assigned working hours, Monday through Friday, as well as performing this work on some of his rest days and holidays."

It is Carrier's contention that the 1954 Memorandum issued by Carrier is a unilateral document, not a contract with the employees, issued in furtherance of the requirements of the service; that the issue, basically, presented here is—whether or not the Agent has the exclusive right to issue off hour bills of lading, waybills and shipping orders; Carrier maintains that since the year 1924 freight conductors have issued waybills, bills of lading and have handled loads on shipping orders at non-agency or at agency stations, when there is no Agent on duty; that at Bellflower, in the absence of the Agent, the clerk had handled bills of lading; Carrier contends that Petitioner has failed to establish that he had been called on off-hours and that this work belonged exclusively to the Agent.

It is conceded by the Claimant that the Agreement contains a general Scope Rule. Furthermore, the Petitioner has not contended that Agents only have the right to sign bills of lading or waybills.

This controversy arises largely over the change in operating rules by Carrier as contained in Station Circular Letter No. 140, dated October 24, 1958, which contained, in part, the following:

"Effective immediately, all carload freight moving from stations on our rails on which billing is not ready by the regular station closing hour, and on Saturdays and holidays, will be moved on the No. 2 copy of the bill of lading. Bill of lading will be properly executed by conductor pulling car, and brought into Los Angeles for issuance of waybill."

Carrier has the right to make a change in operation in accordance with the requirements of the service at any time to meet changing conditions and the employees have no cause for complaint unless the change in some way violates a rule or rules of the Agreement. See Award 6168—Wenke.

The Carrier is obligated in the public interest to give the best possible service in the most economical manner.

We fail to see wherein this proposed change in operation in any way violated any provision of the Agreement.

**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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of October 1964.