

Award No. 13761
Docket No. TE-12394

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY
(Eastern Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Atchison, Topeka & Santa Fe Railway, that:

1. The Carrier violated the terms of the agreement between the parties when, on November 27, 1959, it unilaterally declared abolished the position of first trick telegrapher-clerk at Morris, Kansas, and removed work embraced by this position, and by the newly classified agent-telegrapher position, from the agreement and assigned such work to a newly established clerk's position.

2. The work comprising the first trick telegrapher-clerk and the agent's positions at Morris, Kansas, shall be restored to the agreement and to the employes (telegraphers) to which it traditionally and contractually belongs.

3. Carrier shall compensate F. E. Powers on basis of eight hours' pay at the rate of the first trick telegrapher-clerk position at Morris, Kansas, each work day for any loss in wages, in addition to pay at the time and one-half rate for any work performed outside the assigned hours of the first trick telegrapher-clerk position at Morris, Kansas, plus actual expenses incurred on each day he works at a station other than Morris, Kansas.

EMPLOYEES' STATEMENT OF FACTS: Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

This dispute concerns the Carrier's unilateral abolishment of the first shift telegrapher-clerk position and reclassification of the agent's position to agent-telegrapher, without conference or negotiation, at Morris, Kansas, and the transfer of work formerly performed by the agent and telegrapher-clerk to a newly established clerical position.

Prior to November 27, 1959, the station force at Morris was:

to meet their burden of proof of an agreement violation and it is wholly without support under the agreement rules, and should be either dismissed or denied for the reasons previously set forth herein.

OPINION OF BOARD: The gist of this claim is that Carrier violated the Telegraphers' Agreement by unilaterally transferring on November 27, 1959, the clerical duties of the agent and first trick telegrapher at Morris, Kansas to a newly established clerk's position. On that date, the telegrapher-clerk's position was abolished and the agent's position reclassified to agent-telegrapher. The telegraphic duties of the abolished position were assigned to the agent-telegrapher and the clerical work of both the telegrapher-clerk and agent were transferred out of the Telegraphers' Agreement to the newly established clerk's position.

This is substantially the same factual situation that this Board had occasion to pass upon in Awards 13074, 13075 and 13760, involving the same Agreement, parties and contentions. No valid basis is perceived for distinguishing the cases and, for the reasons set forth in the awards cited above, we will find the Agreement violated in the present case and sustain the claims to the same extent that we did in Award 13760.

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 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 was violated.

AWARD

Claim sustained to the extent indicated in Award 13760.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1965.