

Award No. 13896

Docket No. TE-13449

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

P. M. Williams, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

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

1. Carrier violated the Agreement between the parties when it acting arbitrarily and without agreement, reclassified the position and reduced the rate of pay of the Agent at Oak Grove, Louisiana.

2. Carrier shall restore the agreed-to classification and negotiated rate of pay to this position beginning with March 20, 1961, and shall retain the agreed-to classification and negotiated rate unless changed by agreement.

3. Carrier shall compensate O. M. Carnley, or the incumbent of the position of Agent, Oak Grove, Louisiana, for the difference due him between the arbitrary rate set by the Carrier and the agreed-to-rate set by negotiation beginning with March 20, 1961 and continuing until the proper rate is restored.

EMPLOYEES' STATEMENT OF FACTS: There is an Agreement in effect between the parties with rules effective September 1, 1949, and wage schedule effective February 1, 1951. Listed at page 45 of the Agreement is the position of Agent-Telegrapher at Oak Grove, Louisiana, located on the Little Rock Seniority District. The negotiated rate shown in the Agreement is \$1.73 per hour. It will be noted from examining the various negotiated rates of pay on this Seniority District for Agent Telegraphers that there is no uniformity of rating in the Agent-Telegrapher classifications. With agreed-to wage increases, the rate on this position of Agent-Telegrapher at Oak Grove on March 20, 1961, amounted to \$2.505 per hour.

By a message dated March 16, 1961, the Carrier arbitrarily reclassified the position to Agent Restricted Operator and unilaterally reduced the rate of pay:

"Monroe, La. 2:55 P. M., Mar. 16, 1961

In discussing this claim on the property with the General Chairman the Carrier pointed out the fact that the upgrading was temporary, based on an increase in duties because of a movement of pipe into the territory, and when the pipe movement had been completed the position reverted to its former status as agent-restricted operator and the rate of pay established therefor was reestablished. The General Chairman, however, refused to concur in the Carrier's reestablishment of the classification of Oak Grove as agent-restricted operator taking the position that the completion of the pipe movement was not a sufficient decrease in duties to justify the reestablishment of the agent-restricted operator classification and also took the position that the pipe movement continued. The Carrier investigated again and found that the pipe movement had been completed contrary to the statement of the General Chairman.

The Employees have always considered Rule 2 (f-2) as their right to veto any action on the part of the Carrier to reclassify a position from agent-telegrapher to agent-restricted operator without regard to their obligation to recognize the facts upon which the reclassification may be based. The Board in several awards of Special Board of Adjustment No. 117 involving reclassifications apprised the Employees of their obligation under Rule 2 (f-2) wherein the Board held that the removal of train order and telegraph duties was a sufficient decrease in duties of a permanent nature to justify reclassifying a position from agent-telegrapher to agent-restricted operator. However, the Employees continually refuse to recognize their obligation under the Rule.

The Carrier has shown in the foregoing that:

1. The Carrier is not prohibited under the provisions of Rule 2 (f-2) from upgrading a position from agent-restricted operator to agent-telegrapher temporarily to take care of a temporary need for telegraph service.
2. The Carrier is not prohibited under the provisions of Rule 2 (f-2) from reestablishing the original classification of agent-restricted operator when the need for train order and telegraph service no longer exists.
3. Rule 2 (f-2) does not give the Employees the right of veto when the facts clearly indicate there is justification for reclassifying a position from agent-telegrapher to agent-restricted operator as expressed in many awards of Special Board of Adjustment No. 117 on this property.
4. Special Board of Adjustment, in awards involving the reclassification of positions from agent-telegrapher to agent-restricted operator, held that the removal of train order and telegraph duties from such agent-telegrapher positions was a sufficient decrease in duties to justify reclassification to agent-restricted operator, therefore the Employees are obligated to recognize the Board's decision in subsequent similar cases.

The Employees' position is without support under the provisions of Rule 2 (f-2) and the Carrier respectfully requests your Board to deny the claim as was the case of similar claims presented to Special Board of Adjustment No. 117.

OPINION OF BOARD: Prior to January 16, 1961, the Oak Grove, Louisiana station on Carrier's property was manned by a member of Peti-

tioner's Organization. He had the classification of an Agent-Restricted Operator. The record is contradictory on the question of the correctness of the employee's classification prior to the date mentioned, though there is no disagreement that the rate of pay of the position had been \$2.265 per hour.

The material facts, except as noted above, show the position in question to have been upgraded to Agent-Telegrapher on January 16, 1961, when its duties and responsibilities were increased, and thereafter, on March 20, 1961, downgraded and returned to an Agent-Restricted Operator classification, with the former rate of pay, when the additional duties and responsibilities which had been added were removed.

It is alleged that the latter downgrading and reduction in the rate of pay without Petitioner's concurrence was a violation of the terms of the applicable agreement. Claim is made for the difference in the "arbitrary" rate set by Carrier and the "agreed-to" rate of the higher classified position.

The essential facts of this dispute are very similar to those presented to this Division by the same parties in Award No. 13895. We find no compelling reason within this record which would cause us to reach a different result from the decision found in Award No. 13895, therefore, we must deny this claim also.

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 was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1965.