

Award No. 13899

Docket No. TE-14290

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 Telegraphers' Agreement when, on January 29, 1962, the station at Toronto, Kansas, was reclassified from position of agent-telegrapher, rate \$2.48 per hour, to that of agent-restricted operator, rate of \$2.265 per hour.

2. Carrier shall compensate C. F. Wheeler, or the incumbent thereof, the difference in the hourly rate of 21½ cents, as long as this violation continues.

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 56 of the Agreement there is a position of agent-telegrapher at Toronto, Kansas. The position is listed at \$1.705 per hour, which with agreed-to increases amounted to \$2.48 per hour on January 29, 1962.

There has been an agent-telegrapher position in the Agreement between these parties since the first Agreement in 1892, and the position has always been one of the higher rated jobs. Other positions have been reclassified and rates reduced or increased, as the case might be, by agreement during all the years since 1892, but it was not until 1956 that this Carrier began to reduce rates without an agreement.

On January 19, 1962, Superintendent H. B. Davis asked the District Chairman for his concurrence in reclassifying the position and reducing the rate of pay. See ORT Exhibit 1.

In ORT Exhibit 2, District Chairman McCoy replied to Superintendent Davis and stated that he believed a joint check of conditions could determine the proper classification of the position. Mr. Davis did not even answer this letter and arbitrarily reduced the rate of pay without any further handling.

protested and the Organization representatives would not agree to adjustment in rates.

The foregoing clearly reveals the Carrier properly reclassified the position of Agent-Telegrapher to position of Agent-Restricted Operator under the applicable rule agreed to by the parties, and the Carrier applied the rates agreed to by the parties to the Agent-Restricted Operator position at Toronto under the applicable rules agreed to by the parties.

The contentions of the Organization of the Employes and the theories upon which they are founded have no merit when viewed in the light of the applicable rules of the Telegraphers' Agreement and the Carrier respectfully requests your Board to deny the claim as was the case of similar claims presented Special Board of Adjustment No. 117.

(Exhibits not reproduced.)

OPINION OF BOARD: Only the date, location and claimant differs from that submitted to this Board in Award No. 13895 of this Division, otherwise the claim presented herein is essentially the same since the same parties, Agreement rules and position reclassification is involved here too.

For the reasons which we expressed in Award No. 13895 we will also deny the claim presented herein.

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 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.