

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

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

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago & Illinois Midland Railway that:

1. The Carrier violated the parties' Agreement at Taylorville, Illinois, commencing March 3, 1958, when as a result of the installation of a commercial telephone line between Taylorville and Shops (Springfield), Illinois, it declared abolished the third shift and Rest Day Relief Telegrapher-Clerk's positions, and thenceforth required or permitted employes holding no rights under said agreement to perform work attached to the nominally abolished positions, including the transmission and reception of message and reports of record (OSes).

2. The Carrier shall, because of the violation set out above, compensate J. M. Ruggles, Sr., the regular occupant of the second shift position at Taylorville, a day's pay for Saturday, March 8, and Sunday, March 9, 1958, and for each Saturday and Sunday thereafter so long as the violation continues, and

3. The Carrier shall, in addition to the foregoing, compensate the senior idle Telegrapher, extra in preference, a day's pay at the rate of the abolished positions, commencing March 3, 1958, and so long thereafter as the violation as set forth in Item 1 continues. The names and amounts due such employes 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, November 1, 1946, and as amended.

accommodation to the BLF&E representative for his personal use in connection with checking the daily miles of firemen on the working lists of that craft. A complete record is maintained by a timekeeper (BofR Clerks) in the Superintendent's office at Springfield and certain portions of this information was, for only a short time after abandonment of the Taylorville roundhouse on April 15, 1955, 'phoned to the agent at Taylorville to copy onto forms which were given to the BLF&E representative. The amount of time required to formerly furnish such information did not consume in excess of 10 minutes on any date.

Employees' Contention No. 5:

"All of these cases we claim are our work and were illegally transferred to other crafts."

Facts: Such work was not illegally transferred, particularly items 1, 2 and 4 where an unnecessary procedure was simply abolished. The collective agreement with the ORT does not grant telegrapher-clerks an exclusive right to perform any of the work enumerated by the employees in the above contentions.

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The claim contained in the advance notice of intention of the ORT to file an ex parte submission is an amended claim and has not been presented or handled in the usual manner with the carrier.

A listing of the factual information included as EXHIBITS is as follows:

- EXHIBIT A — Letter Agreement dated September 18, 1953.
- B — Letter Agreement dated March 18, 1958.
- C — Notice of abolishment and changes in assignment dated February 27, 1958.
- D — February 19, 1958 letter of General Chairman H. C. LeMasters.
- E — February 21, 1958 letter of Supt. Trans. & Equipment Harvey.
- F — Initial claim filed by local chairman J. M. Ruggles, Sr.
- G — Final case disposition in dispute with Clerks, MP-BRC-62.
- H — Superintendent's decision in Supt. Case ORT 1-58.
- I — Hours' of service act.
- J — General Chairman's letter to Superintendent dated July 7, 1958.

(Exhibits not reproduced.)

OPINION OF BOARD: It is the contention of the Carrier that there is a substantial variance between the claim presented to this Board and the dispute handled on the property. It calls particular attention to that part of Statement of Claim, Paragraph 1, reading:

"... including the transmission and reception of messages and reports of record (OSes)."

The claim originated with time slip filed by Local Chairman with Assistant to Superintendent and Equipment, on April 30, 1958. Upon failure to

settle the dispute at that level, General Chairman appealed disallowance to Superintendent Transportation and Equipment, on July 7, 1958.

The letter stated:

"Please refer to Mr. D. C. Adam's letter dated May 23, 1958 File: 012.21, wherein he advises that our agreement has not been violated account of abolishing the calling of train crews at our Taylorville station and this work being transferred to our Springfield yard office, where the calling of train crews at Taylorville, is being done by a craft other than the Order of Railroad Telegrapher Clerks, Via a leased commercial telephone line.

"Also abolishing third trick telegrapher-clerk's position at this station during the working days each week, and on each week end, effective Saturday and Sunday March 8th, and 9th, 1958 and each week and week end thereafter until said claims have been settled or adjusted.

"We wish to refer you to adjustment board no. 3 awards, 6343, 6419, and 6443, which we feel substantiates our claims.

"We also believe that when in craft has been handling the calling of crews or any other work, such as clerical, has been done by our craft regardless whether we have a rule covering, that this work belongs to us, and before you can legally take it from us, the work must also be abolished. If we are correct, we understand that this board has so ruled in past cases.

"For the reasons as given above, we are appealing these cases to you for further consideration.

"Thanking you kindly for any favors granted, and your reply at your convenience."

Superintendent Transportation and Equipment replied as follows:

"Claim on behalf of J. M. Ruggles, Sr. for 8 hours each date — March 8 and 9, 1958 — and each weekend thereafter and claim for 8 hours on behalf of any extra telegrapher March 3, 1958 and thereafter account jobs being abolished at Taylorville without abolishing duties thereon.

"CARRIER'S FACTS:

"Effective 7:00 AM March 3, 1958, the Third Trick Telegrapher-Clerk and #4 Relief Telegrapher-Clerk positions at Taylorville Station were abolished. On this same date, the Second Trick Telegrapher-Clerk's work week was changed to Monday through Friday, Saturday and Sunday rest days. The Agency at Taylorville was put on a 6 day week with the regular assigned Agent-Telegrapher working Monday through Friday and the #3 Relief Telegrapher-Clerk protecting the position on Saturdays from 7:00 AM to 3:00 PM.

"Effective 11:00 PM May 16, 1958, the Second Trick Telegrapher-Clerk's position at Taylorville station was abolished which left only the Agent-Telegrapher's position working at Taylorville Monday through Friday and a Relief Telegrapher Clerk protecting same on Saturday.

"Effective March 1, 1958, the calling of all crews living at Taylorville was transferred to our Springfield Shops Yard Office and a direct commercial telephone line installed between Taylorville and Springfield. Prior to this date, the calling of men living at Taylorville was handled by our Springfield Shops Yard Office, calling the operator at Taylorville via company phone and the operator in turn, calling the employee by local commercial phone. Further, the making of the daily passing report, which was formerly made by the Third Trick Operator at Taylorville was, on and after March 3, 1958, handled by the Yard Clerk on duty at Taylorville Station. The making of the passing report was a very minor matter as the number of cars received and delivered in interchange at Taylorville was only averaging about 10 cars per day, which would take less than 1 hour to prepare. As an example, on August 15, 1958 there were 3 cars received and 2 delivered; August 16, 3 and 17; August 17, 3 and 0; August 18, 7 and 0."

"DISPOSITION: Claims declined as being without merit under the Current Schedule Agreement with the Order of Railroad Telegraphers."

"Signed this 22nd day of August 1958."

Appeal was then taken to Manager of Personnel without changes or additions to the claim.

We think it clear that the claim submitted to this Board, is substantially different from the claim presented to Carrier and handled to conclusion on the property. It has been consistently held that where there is a substantial variance between the claim handled on the property and that presented to the Board, we cannot resolve the dispute. See recent Awards 14135, 13664, 13235, 12353 and 12124. The claim will be dismissed.

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 claim will be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1966.

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