

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION****John H. Dorsey, Referee**

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(FORMERLY THE ORDER OF RAILROAD TELEGRAPHERS)****CHICAGO AND NORTH WESTERN RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, St. Paul, Minneapolis and Omaha Railway that:

1. Carrier violated and continues to violate the agreement between the parties when on December 18, 1957 it declared abolished the first and second trick telegrapher's positions and the regular rest day relief position at Itasca, Wisconsin, assigned the work thereof to employees not covered by the agreement and changed the assigned hours of the third trick telegrapher's position to cover a nine hour spread.

2. Carrier shall be required to restore the work of the positions to employees covered by the Telegraphers' Agreement.

3. Carrier shall be required to compensate the regularly assigned incumbents: W. J. Scharhag, first trick; L. S. Sloan, second trick; E. A. Tetzloff, third trick; and R. H. Finstad, Relief Position #3, according to the provisions of Rule 32 of the Agreement commencing December 18, 1957 and continuing thereafter until the violation is corrected.

4. Carrier shall be required to compensate all other employees improperly displaced for any loss of wages and reimburse them for any expense incurred.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Itasca, Wisconsin is a station on this Carrier's lines near Superior, Wisconsin. Both passenger and freight trains are handled at and through this station. It is a freight yard facility where freight trains originate and terminate and are made up and switched.

For many, many years the Carrier maintained continuous telegraph service at this location. At the time cause for this claim arose there were three basic positions: First trick starting at 7:55 A. M., second at 3:55 P. M. and third at 11:55 P. M., with a rest day relief position (Relief Position #3) furnishing rest day relief, 1 day on first, 2 on second and 2 on third. The first trick not represented on Sundays.

their regular duties by illegal suspension, or who have been adversely affected thereby, beginning with December 18, 1957 and concluding as of the date they are returned to their regular positions or work." The "claim" thus filed was denied by the carrier's trainmaster and subsequently by its superintendent, and on May 23, 1958 was appealed to the carrier's Director of Personnel. On June 23, 1958 the carrier's Director of Personnel wrote the General Chairman, calling his attention to the fact that the "claim" was not in accordance with the provisions of Article V of the August 21, 1954 National Agreement in that no claimants were named and therefore that it could not be recognized as a legitimate claim. The carrier further pointed out in that case that, insofar as the merits of the claim were concerned, the telegraphers at Newton Avenue Tower had handled telegraph messages for the Head-of-the-Lakes terminal for many years and since December 18, 1957 had been handling telegraph messages telephoned to them from employees at Itasca when the telegrapher-clerk was not on duty and that the situation in this respect was no different than it had been when telegrapher positions were in existence at Itasca and messages were telephoned to the telegraphers at that point.

On June 25, 1958 the General Chairman, ORT, wrote the carrier's Director of Personnel, a copy of the General Chairman's letter being attached as Carrier's Exhibit "E." In that letter, for the first time, the General Chairman named individual claimants, apparently attempting to thereby cure the improper "claim" as originally filed and as handled up to the and including the carrier's Director of Personnel.

For the information of this Board, by authority granted by the ICC under its Order dated December 28, 1956, the Chicago and North Western Railway Company was authorized to lease the Chicago, St. Paul, Minneapolis and Omaha Railway Company. Subsequent to January 2, 1957 the Chicago and North Western Railway Company has operated the properties formerly included within the Chicago, St. Paul, Minneapolis and Omaha Railway Company as a part of the Chicago and North Western Railway Company. The controlling agreement between the former Chicago, St. Paul, Minneapolis and Omaha Railway Company and the Order of Railroad Telegraphers has, subsequent to January 2, 1957, been temporarily continued in effect and that agreement is controlling in the instant dispute.

Claim involved in this case has been denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier moves for dismissal of the Claim on the grounds that it fails of compliance with the following requirements of Article V of the August 21, 1954, Agreement:

"1. All claims or grievances arising on or after January 1, 1955 shall be handled as follows:

(a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same * * *"
(Emphasis ours.)

The claim "presented in writing * * * to the officer of Carrier authorized to receive same" reads, in pertinent part:

"* * * blanket claim is hereby filed for all time lost, including expenses away from home point (Superior which includes Itasca), in behalf of all employees coming within the scope of the Telegraphers' Agreement who have been improperly suspended from their regular duties by illegal suspension, or who have been adversely affected thereby, beginning with December 18, 1957 and concluding as of the date they are returned to their regular positions of work."

That was the claim ultimately appealed to and denied by Carrier's highest officer for, inter alia, the reason stated in the motion before us.

We have held, when a like issue has been raised, that Claimants need not be individually named if their identity is known to Carrier or is readily ascertainable. Neither of the recognized exceptions finds support in the record in the instant case. We will grant the motion to dismiss.

An attempt by the Organization to cure the fatal defect by supplying names to the Carrier after final denial of the claim on the property; and, then including those names in the Claim submitted to this Board, came too late. It contravened the statutory mandate that claims must be handled in the usual manner on the property as an indispensable condition precedent to invoking this Board's jurisdiction.

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 Claim must be dismissed for failure of compliance with Article V, 1(a) of the August 21, 1954 Agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of June 1966.