

Award No. 14821
Docket No. TE-11378

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

GRAND TRUNK WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Grand Trunk Western Railroad, that:

1. The Carrier violated the Agreement between the parties when it failed to assign a relief agent at Lansing, Michigan, during the absence of the regular incumbent between the dates of June 10, 1958 and July 11, 1958, inclusive.

2. Carrier shall be required to compensate Telegraphers W. Eberle, F. H. Haynes and A. R. Miller, who were available for this assignment, a day's pay of eight hours at time and one-half rate for each of the dates as set forth below:

W. Eberle — June 10-11-17-18-24-25, July 1-2-8-9

F. H. Haynes — June 12-13-19-20-26-27, July 3-4-10-11

A. R. Miller — June 16-23-30, July 7.

EMPLOYEES' STATEMENT OF FACTS: Lansing, Michigan agency is a so-called supervisory agent's position listed in the current Telegraphers' Agreement, effective November 1, 1955, (which by reference is made a part of this submission) as follows:

Station	Position	Rate Per Month
Lansing	*Agent	\$491.82

The rate of pay has since been increased to \$583.61 per month. The asterisk (*) symbol denotes Supervisory Agent and such agents are subject to all rules of agreements in effect between the parties except as set forth in Rule 27, providing as follows:

"(a) Supervisory Agents will be designated as such in the Wage Table and will have no assigned hours. Except as provided in paragraph (b) of this Rule, their monthly rates will compensate for all services rendered. The straight time hourly rate shall be determined by dividing the monthly rate by 211.

As a matter of further information, three yard engine assignments are operated in Lansing Yard under the supervision of a Yardmaster. Lansing is a train order office with a tower manned by Operator-Levermen who report to the Chief Dispatcher of the Chicago Division at Battle Creek on all train order matters. There is also a tower manned by Levermen under the jurisdiction of the Signal Department. The Car and Locomotive Foreman at Lansing has jurisdiction over the Roundhouse and Car Repair Department at that point. The Chief Clerk and Warehouse Foreman are section heads, and as such do not require the close supervision of the Agent as to the performance of their duties. Upon occasion in the Agent's duties require him to be absent from his office or even absent from the city, and the agency is so organized that it can function in the Agent's absence for all ordinary purposes. Existing regulations permit the Chief Clerk to sign necessary papers in the Agent's name. Matters that must be handled personally by the Agent can be and are deferred until his return to the office.

In a large office like Lansing, manned by a specialized staff, even the average Relief Agent is of little use. The three claimants are not Relief Agents and none of them has the experience that would qualify him to supervise the Lansing staff.

OPINION OF BOARD: Mr. C. E. Collins, the regularly assigned Agent at Lansing, Michigan, reported ill on June 10, 1958, and performed no service after that date. On June 20, 1958, Carrier issued a bulletin advertising the position which was filled on July 14, 1958.

The Brotherhood contends that Carrier violated the Agreement when it failed to assign a Relief Agent to the position between June 10 and July 11, 1958. It maintains that instead of filling the position with an employee holding seniority rights under the Telegraphers' Agreement, it assigned the work to the Chief Clerk, an employee of another craft and class, in violation of the Scope Rule. It points out that the employees on whose behalf the claim is filed were qualified and available to perform the work.

In its denial Carrier points out that the period between June 10 to June 30 constituted an absence due to vacation and hence was not a vacancy under the Rules. The permanent vacancy that began on July 1 was advertised and properly filled under Rule 3. No relief was furnished during the absence of the Agent because there was no operational need for such relief. Moreover, no employee of another craft performed the duties belonging exclusively to the Agent and his craft.

We cannot assume that in the absence of the Agent other employees were assigned to perform his work. The Agent's responsibilities include the supervision of the staff in the performance of office, warehouse, and yard operations, as well as service as local representative of the Railroad in its relations with the general public. Some of his duties belong to him exclusively and others which are not supervisory are duties also performed by members of the staff not subject to the Telegraphers' Agreement. At times when the Agent's duties required him to be absent from his office, the agency staff performing its own work carried on ordinary business transactions without him. In the instant case the Brotherhood fails to furnish probative evidence to support its allegation that clerical employees not covered by the Telegraphers' Agreement performed work belonging to the Agent.

The period between June 10th and June 30th was a vacation absence which Carrier gave Mr. Collins before his resignation. Section 6 of the Vacation Agreement outlines the conditions under which Carrier must provide a relief worker. Brotherhood has not shown that a relief employe was needed, that failure to assign one was a burden to other employes, or that members of another class or craft performed the work. Thus Carrier properly exercised its managerial prerogative in blanking the position. Furthermore in compliance with Rule 3 of the 'Telegraphers' Agreement Carrier properly filled the position within 30 days after the vacancy occurred. During the vacancy from June 30th to July 11th there is also no showing that Carrier assigned the work to employes not subject to the Telegraphers' Agreement.

Since Brotherhood has not demonstrated that work belonging exclusively to the Agent was performed by employes outside of the Telegraphers' Agreement, when Carrier failed to assign a Relief Agent at Lansing, Michigan, we find the Agreement was not violated.

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 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 11th day of October 1966.