

Award No. 14870
Docket No. TE-14009

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

NEW YORK CENTRAL RAILROAD COMPANY
(Western District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central System (Western District), that:

1. The Carrier violated the Agreement between the parties when on September 6, 1961, it declared abolished first, second and third shifts, plus relief positions Nos. 22 and 26 at the C&P Crossing.
2. The Carrier shall compensate H. J. Porter, working first shift on a temporary vacancy L. H. Boehning, H. F. Zigman, J. A. Karaba, who were improperly displaced by the abolishment of the aforesaid positions, and also H. S. Boyd, for one day each week under Article 13, beginning on September 6, 1961 and continuing each day thereafter until the violation is corrected.
3. The Carrier shall compensate four senior idle employes, extra in preference on Seniority District No. 3, each in the amount of a day's pay beginning on September 6, 1961 and continuing thereafter until the violation is corrected.
4. The right is reserved to examine the Carrier's records to determine the amount due each claimant.

EMPLOYEES' STATEMENT OF FACTS: On August 28, 1961, the Carrier put out the following notice, which stated in part:

"Effective 7:00 AM Tuesday, August 29, 1961

The following track and signal changes in effect at Double Track

Joint track routed to and from East Pier for Pennsylvania R R trains in service.

"Movements to and from the P.R.R. through the connection at West Third Street will be made when proceed hand signal with green flag by day and green light by night is given by the switchtender at West Third Street handling this switch.

"Such movements will be made only when authorized by the train dispatcher."

The principal duty of the operators at C&P Crossing was to operate Target "A" for movements of the PRR over the crossing and movements to and from the Pier tracks north of the NYC main line. The normal position of the target was lined for NYC main line.

On September 6, 1961 the crossing diamonds and the targets were removed and in lieu of the diamonds a series of crossovers were installed starting just east of "RN". The PRR track now leads into the NYC main line and the NYC main line between the Double Track and the Drawbridge is a jointly used track. C&P crossing was eliminated as a signal station. The Manual Block system was discontinued through Station "RN", but otherwise "RN" remains unchanged with switchtenders on duty around the clock.

Operation between the Double Track, "RN" and "DB" is shown in the current timetable as follows:

"Between Double Track and DB eastward trains or engines receiving Signal Rule 290 at DB, must not pass Double Track until receiving hand signal from switchtender.

"Westward trains or engines receiving Rule 291 at Automatic Signal 182.1 must not pass Double Track until receiving hand signal from switchtender.

"Movements to and from PRR at Double Track will be made when hand signal with green flag by day and green light by night is given by the switchtender, only when authorized by the train dispatcher."

When the diamonds were removed the positions were abolished resulting in the claims now subject of this submission.

OPINION OF BOARD: Carrier abolished 1st, 2nd, and 3rd tricks plus relief positions 22 and 26 at C&P Crossing. The Organization asks compensation for Porter (1st trick) working on a temporary basis; Boehning, Zigman and Karaba for improper displacement; Boyd for one day each week and compensation for four senior idle employees, extra in preference in amount of a day's pay beginning September 6, 1961 and continuing until the alleged violation is corrected. Claimant contends Carrier required other than Telegraphers to perform work that had formerly been performed by the Operator-Leverman.

The record contains abundant allegations describing duties and work remaining to be performed by Claimants subsequent to abolishment of the aforesaid positions. However, in the absence of evidence tending to prove these allegations, they (the allegations) are merely conclusions.

The burden of proving that substantial work remains to be performed subsequent to abolishment of a position is on the Claimant. In this matter, Claimants failed to carry out their burden of proof. The record is void of any proof that there had been a transfer of exclusive Telegrapher's duties to another Craft subsequent to abolishment of said positions.

For the foregoing reason, this Claim must be denied.

FINDINGS: The Third Division of the Adjustment Board, 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 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 21st day of October 1966.