

Award No. 14949

Docket No. TE-12377

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

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

PACIFIC ELECTRIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The
Order of Railroad Telegraphers on the Pacific Electric Railway, that:

CLAIM No. 1

1. The Carrier violates the agreement between the parties hereto when it removed from said agreement work embraced by covered positions at the agency stations listed below, and on the dates shown in connection therewith and transferred the work so removed to employees at Los Angeles, California, not covered by the Telegraphers' Agreement.

Orange	Nov. 1, 1959
Yorba Linda	Nov. 1, 1959
Garden Grove	Nov. 1, 1959
East Long Beach.....	Nov. 1, 1959
Whittier	Dec. 1, 1959
LaHabra	Dec. 1, 1959

2. The Carrier shall, because of the violations set forth above, restore the work unilaterally removed from the agency stations thereto, and to the employees thereat entitled to perform the work.

3. The Carrier shall, in addition to the foregoing, commencing on the dates set forth in Item 1 of this Statement of Claim, compensate each employee adversely affected by reason of Carrier's violative act, for any loss of wages, plus actual expenses.

CLAIM No. 2

1. The Carrier violates the agreement between the parties hereto when it removed from said agreement work embraced by covered positions at the agency stations listed below, and on the dates shown in connection therewith and transferred the work so removed to employees at Los Angeles, California, not covered by the Telegraphers' Agreement.

El Segundo	Sept. 1, 1959
Bellflower	Oct. 1, 1959

2. The Carrier shall, because of the violations set forth above, restore the work unilaterally removed from the agency stations thereto, and to the employees thereat entitled to perform the work.

3. The Carrier shall, in addition to the foregoing, commencing on the dates set forth in Item 1 of this statement of claim, compensate each employee adversely affected by reason of Carrier's violative act, for any loss of wages, plus actual expenses.

CLAIM No. 3

1. The Carrier violates the Agreement between the parties hereto when on March 1, 1960, it removed from said agreement work embraced by the agency positions at El Monte, Azusa, Covina, LaVerne, Upland and Corona, California, and transferred the work so removed to employees at Los Angeles, California, not covered by the Telegraphers' Agreement.

2. The Carrier shall, because of the violations set forth above, restore the work unilaterally removed from the agency stations set forth in Item 1 of this Statement of Claim, thereto, and to the employees thereat entitled to perform the work.

3. The Carrier shall, in addition to the foregoing, commencing March 1, 1960, compensate each employee adversely affected by reason of the Carrier's violative act for any loss of wages, plus actual expenses.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an agreement by and between the parties to this dispute, effective August 1, 1955, (except as otherwise indicated), and as amended.

CLAIM No. 1

Attached to and made a part of the parties' agreement as Addendum No. 1 is the WAGE SCALE. Therein are listed the positions existing at Orange, Yorba Linda, Garden Grove, East Long Beach, Whittier, and LaHabra, California, on the effective date of said agreement.

As indicated by the wage scale listing, all of the positions involved in this dispute are "one-man agencies," at which service, duties and operations necessary to be performed are performed by the occupant of the one-man agency position.

Prior to the date shown in connection with each individual agency listing, as set forth in the Statement of Claim (Claim No. 1), the agent at all of the one-man agencies here involved handled or performed all of the station work in connection with the work of accounting for all Pacific Electric freight, preparations of freight bills on carload shipments received, the collection of freight charges from credit patrons, rating, the collection covering interline switching settlements, and work incidental thereto.

Prior to the date shown in connection with the agency positions as listed in the Statement of Claim, Item 1 of this Statement of Claim, Carrier's Accounting Officer issued instructions to the agent at the various agencies

nated by the Carrier; that, historically, the character of the work involved was such that it had always been done by agents, assistant agents, clerical employes and others, depending entirely upon availability of employes at the location where the company may have elected to have the work performed. The Superintendent called attention to the fact that no positions under the collective agreement with The Order of Railroad Telegraphers were disturbed as the result of the administrative changes. The Superintendent's denial letter is reproduced, and made a part hereof, as Carrier's Exhibit Q.

Under date of May 18, 1960, the Local Chairman acknowledged the Superintendent's letter and rejected the decision, concurrently advising the Superintendent that further appeal would be made. This correspondence is reproduced, and made a part hereof, as Carrier's Exhibit R.

The decision of the Superintendent was appealed to Carrier's Manager of Personnel by the General Chairman under date of May 24, 1960. General Chairman's appeal is reproduced, and made a part hereof, as Carrier's Exhibit S.

On June 15, 1960, the appeal was denied by Carrier's Manager of Personnel upon the basis that the position taken by the Superintendent in his letter to the Local Chairman dated May 13, 1960 (Carrier's Exhibit Q) was proper. The denial letter is reproduced, and made a part hereof, as Carrier's Exhibit T.

The General Chairman rejected the decision of the Manager of Personnel by letter dated July 5, 1960 and advised that further appeal would be made to the National Railroad Adjustment Board. This correspondence is reproduced, and made a part hereof, as Carrier's Exhibit U.

Nothing further was heard from the claim until receipt of notification from the Division dated November 16, 1960. This latter document is not reproduced in that it now appears in the official files of the Division.

(Exhibits not reproduced.)

OPINION OF BOARD: Over a period of many years prior to the dates listed in the claims, the Carrier had progressively centralized clerical work such as waybilling, preparation of freight bills, handling of collections, handling of demurrage and accounting, which had been performed at outlying agencies. Although this centralization started June 1, 1954, and transfers of clerical work to the central office had been made, no claim was presented by the Employees until about September 1, 1959.

The positions of Agents at Orange, Yorba Linda, Garden Grove, Whittier (Claim No. 1), El Segundo, Bellflower (Claim No. 2), El Monte, Azusa, Covina and Upland (Claim No. 3) were not abolished with the transfer of the clerical work to the central office. LaVerne and Corona (Claim No. 3) were one man agencies. Clerical work was transferred from each of these agencies to the central location on March 1, 1960. The agency positions remained in existence at both locations until December 1, 1960, when they were abolished.

East Long Beach (Claim No. 1) was a one-man agency. Clerical work was transferred to the central location on November 1, 1959, but the agency positions remained in existence until September 5, 1960, when it became a non-agency station under the jurisdiction of the Watson Agency. An additional position of Assistant Agent was established at Watson to meet the additional responsibilities.

The position of Assistant Agent at LaHabra (Claim No. 1) was abolished on December 1, 1959. A new position of Assistant Agent was established. The employee thereto assigned divided his time between the Whittier Agency and the LaHabra Agency.

In its Ex Parte Submission the Employees stated the question for determination as:

"Can the Carrier unilaterally remove work subject to the agreement at a given location and transfer that work to employees of another class or craft at a different location even though no immediate abolishment of positions (damages) results from such transfer of work?"

Only clerical work was transferred to the central location. The record shows that this work was historically performed by Agents, Assistant Agents, Clerks and others depending upon the number and class or craft of employees at each agency.

Nowhere in the record do the Employees contend that work belonging exclusively to telegraphers was now being performed by clerks. In Award 14602 we said, "The mere fact that telegraphers, who occupied the abolished positions, had performed some clerical work in addition to their other duties does not establish the fact that it was work covered by the Telegraphers' Agreement." No employees not covered by the Telegraphers' Agreement, replaced Agents or Assistant Agents at any of the agencies mentioned in the three claims. There is no question concerning the assignment of communication duties to Clerks.

The answer to the question raised by the Employees can only be stated in the light of all of the relevant, substantive evidence in the record. Employees have failed to meet the burden of proof. They have not established by competent evidence the right to the work transferred to the central locations.

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 Agreement has not been violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1966.

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