

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

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

1. Carrier violated the Agreement between the parties when it acted arbitrarily and without agreement reclassified the positions and reduced the rates of pay of Agents at:

Stotts City, Missouri
Galena, Missouri
Flippin, Arkansas
Norfolk, Arkansas
Newark, Arkansas

2. Carrier shall now restore the agreed-to classification to these positions and restore the negotiated rates of pay and pay the incumbents of these positions the negotiated rate of pay for each day's work beginning with April 1, 1960.

EMPLOYEES' STATEMENT OF FACTS: There is in effect between the parties an Agreement dated September 1, 1949, with wage rates effective February 1, 1951. Listed at page 59 are the negotiated positions on the White River District as follows:

Location	Position	Rate
Stotts City	Agent-Telegrapher	\$1.635
Galena	Agent-Telegrapher	1.66
Flippin	Agent-Telegrapher	1.635
Norfolk	Agent-Telegrapher	1.635
Newark	Agent-Telegrapher	1.66

On March 31, 1960, Stotts City, Flippin and Norfolk were rated at \$2.35 per hour and Galena and Newark at \$2.375. Acting unilaterally and without negotiation, the Carrier reduced the rates of these five positions to an unspecified figure, presumably \$2.205 per hour, since that is the rate the

Dear Sir:

Reference is made to your letter of October 6, 1960, File 1487, appealing claim of Agents at Stotts City and Galena, Missouri, Flippin, Norfolk and Newark, Arkansas, for the difference between the amount allowed and the amount claimed in connection with reclassification of positions from Agent-Telegrapher to Agent-Restricted Operator effective April 1, 1960.

Passenger trains 221 and 232 were discontinued March 21, 1960, after which these positions no longer handled train orders, OS'ed trains or copied PX lineups. The elimination of the need for telegrapher service at these stations as well as the selling of tickets, and the handling of baggage and express constituted a substantial decrease in the duties and responsibilities of a permanent nature and these positions were reclassified effective April 1, 1960, from that of Agent-Telegrapher to that of Agent-Restricted Operator.

Request was made upon the Local Chairman for his concurrence in this reclassification, but the Local Chairman declined to agree.

Your position has been that Carrier's action in this matter constitutes a violation of Rule 2 (f-2); however, the facts do not support that contention. Our handling of this matter was in complete compliance with Rule 2 (f-2) of the agreement.

Claims are totally lacking in merit, and are respectfully declined.

Yours truly,

/s/ B. W. Smith"

(Exhibits not reproduced.)

OPINION OF BOARD: The first question raised in this case is a procedural problem. The claim arose on April 1, 1960, and was timely appealed to the Chief Personnel Officer of Carrier on October 6, 1960, who did not decline the claim until December 20, 1960, which was not within the time limit provided in the Agreement. Therefore, we will sustain the claim in accordance with National Disputes Committee Decision No. 16 for the time period between April 1, 1960 and December 20, 1960.

In examining this claim on the merits, we find that the same parties were before the Board in a similar dispute which resulted in denial Award 13895. We hereby approve the reasoning used and the conclusions reached therein, and apply the same to the instant dispute as related to the merits of the claim.

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 was violated.

AWARD

Claim sustained as per Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1966.