



Award No. 15146
 Docket No. TE-13849

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

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

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the parties' Agreement when on November 25, 1961, it declared the Agent-Telegrapher's position at New Ulm, Texas, abolished without in fact abolishing the work thereof, which was transferred to employes not covered by agreement between the parties located at Sealy, Texas.

2. The Carrier shall, because of the violation set out above, restore the work to the parties' Agreement.

3. The Carrier shall in addition to the foregoing compensate A. E. Nuckels for any loss of wages and additional expenses incurred by reason of the Carrier's violative act for each day that such violation continues.

4. The Carrier shall also compensate any other employes adversely affected by reason of the improper abolishment of the Agent-Telegrapher's position at New Ulm, Texas, for any loss of wages or expenses incurred, so long as the violation continues. The dates and amounts due such employes to be determined by joint check of the Carrier's record.

EMPLOYES' STATEMENT OF FACTS: New Ulm, Texas, is located on the Carrier's South Texas Division, 70 miles west of Houston, Texas. Sealy, Texas, also on the South Texas Division, is 55 miles west of Houston, placing New Ulm 15 miles west of Sealy. The current agreement, effective September 1, 1949, as to rules, and February 1, 1951, as to rates of pay, lists the agency positions at these two points as follows:

"New Ulm	Agent-Telegrapher	\$1.5276 Hour
Sealy	Agent-Telegrapher	1.875 Hour"

New Ulm agency has been and now is served through joint agency with the Gulf, Colorado and Santa Fe Railway Company at Sealy, Texas, and no work of an Agent-telegrapher has been and is now required and performed at New Ulm.

New Ulm is located on the Texas Subdivision of the Southern Division, which extends generally in southeast direction from Granger, Texas, to Houston, Texas, over which passenger train service is not operated, and freight train service only is operated. Sealy is 21.8 rail miles east of New Ulm.

November 24, 1961, General Chairman W. C. Thompson filed claim with General Superintendent R. B. George for pay at rate of Agent-telegrapher from the date New Ulm station was closed, November 25, 1961, account alleged transfer of work to joint agent at Sealy in violation of Telegraphers' Agreement, effective September 1, 1949. The claim was declined by Mr. George December 5, 1961, and his decision was not rejected and appealed and, therefore, is a conclusion of the matter, under the provisions of Section 1 (b), Article V Carriers Proposal No. 7, August 21, 1954, Agreement.

December 6, 1961, General Chairman W. C. Thompson purportedly appealed Mr. R. B. George's decision of December 5, 1961, to the undersigned, on basis of alleged violation of Memorandum of Agreement dated July 3, 1959, between the Gulf, Colorado and Santa Fe Railway Company and the Missouri-Kansas-Texas Railroad Company and the employes on these railroads, represented by The Order of Railroad Telegraphers, coordinating the separate station facilities and services of these two Carriers at Sealy, Texas.

December 29, 1961, General Chairman, Mr. W. C. Thompson, filed another claim, as described in the instant Statement of Claim progressed to the Board, with General Superintendent, Mr. R. B. George. Part 4 of this claim was rejected under the provisions of Article V Carriers' Proposal No. 7 August 21, 1954 Agreement, and the claim was declined in its entirety by Mr. George, under date of January 15, 1962.

January 16, 1962, General Chairman W. C. Thompson purportedly appealed Mr. George's decision of January 15, 1962, to the undersigned.

February 3, 1962, the undersigned rejected and declined both Mr. Thompson's purported appeals of December 6, 1961 and January 16, 1962, in their entirety under the provisions of Article V, Carriers' Proposal No. 7, August 21, 1954 Agreement, the current Telegraphers' Agreement effective September 1, 1949, and the Memorandum of Agreement dated July 3, 1959.

Attached hereto and made a part hereof is copy of correspondence exchanged by the parties in handling this alleged claim on the property, Carriers' Exhibit B.

(Exhibits not reproduced.)

OPINION OF BOARD: It has been contended by the Claimant that on November 25, 1961, Carrier closed its station at New Ulm, Texas, abolishing the Agent-Telegrapher's position there and transferring the work to employes not covered by the Agreement between the parties located at Sealy, Texas.

Carrier denies that any of the Agent-Telegrapher's work was transferred from New Ulm to Sealy and, further, contends that Claimant has submitted to the Carrier no proof or evidence to support such contention.

In addition Carrier has presented procedural questions we find unnecessary to pass on in this award as there are numerous prior awards covering the same subjects raised by the Carrier.

However, we are forced to a conclusion that this Claim must be dismissed as Claimant, other than mere assertions, has failed to offer any evidence or proof that any work was transferred as contended for by Claimant.

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 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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of January 1967.