

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

NORFOLK SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the Telegraphers' Agreement when, commencing on the 1st day of December, 1962 and continuing thereafter, it made a downward adjustment in the compensation (rate of pay) applicable on the agent-operator position at Biscoe, North Carolina, but failed to remove the wires as required by paragraph (b) of Article 13.
2. Carrier further violated said Agreement by reason of its failure to serve notice and confer on the desired change, as provided in Section (b) of Article 32 or in accordance with the provisions of the Railway Labor Act, amended.
3. Carrier shall restore the rate of pay applicable to the agent-operator position at Biscoe, North Carolina, as listed in the Wage Scale, retroactive to December 1, 1962, compensating incumbents of this position for all wage loss sustained as a direct result of this improper reduction in the rate of pay.

EMPLOYEES' STATEMENT OF FACTS: The record will show that effective December 1, 1962, the Carrier unilaterally "reclassified" the Agent-Operator's position at Biscoe, N.C., to that of "non-telegraph-telephone star (*) agency" with a substantial reduction in the rate of pay. Prior to December 1, 1962, the agent-operator's rate at Biscoe was \$2.4288 per hour. Effective December 1, 1962 the Carrier arbitrarily fixed the rate at \$377.43 per month. This amounted to a reduction in wages of approximately \$45.00 per month. There were no changes in duties.

Appendix A (Wage Scale) of the Agreement in effect July 1, 1960 lists Biscoe as an Agent-Operator's position. Biscoe has been an Agent-Operator's position since the first agreement October 1, 1919, and so listed in each successive agreement thereafter. Nevertheless, Carrier addressed the following letter to the incumbent Agent-Operator of the Biscoe position which, in turn, prompted the other letters which follow:

The wages of the Agent were reduced from \$2.4288 per hour to \$377.43 per month, the highest rate paid positions of similar work and responsibility. The commercial telephone was not removed as it existed during the time we had carrier telephone and telegraph lines serving this same station, and it was needed for purpose of carrying on local business with our patrons. On November 5, 1962, General Superintendent D. F. McPherson wrote Agent O. H. Lambert, Jr., as follows:

"Effective with close of business Friday, November 30, 1962, Biscoe will be reclassified to a non-telegraph-telephone 'Star' agency with monthly salary of \$377.43.

As provided for in the Agreement, the reclassification of Biscoe Agency gives you the privilege of claiming any position to which your seniority and qualifications entitle you to within 10 days after November 30, 1962."

This letter, in effect, notified the incumbent Agent at Biscoe, North Carolina, amply in advance of the change of his Agency from an Agent-Telephone position to a non-telegraph-telephone agency effective December 1, 1962, and gave him the privilege of staying on the reduced rated position or exercising his seniority to another job. He elected to remain as Agent at Biscoe, and is presently filling this job.

OPINION OF BOARD: On December 1, 1962, Carrier reclassified the agency at Biscoe, North Carolina from an agent telephone position with rate of pay of \$2.4288 per hour to a non-telegraph telephone agency with a lower monthly salary of \$377.43. This office had been equipped with Morse telegraphic instrument, a railroad telephone, and a commercial telephone. After a storm in February, 1960, which disrupted all communication lines, Carrier abandoned the Morse line, but restored the commercial telephone. On November 1, 1961, it dismantled the telephone and telegraph installations and employees at the station performed their service by commercial telephone.

Petitioner makes claim that Carrier violated the Telegraphers' Agreement, particularly Article 13(b), when it reduced the salary of the agent at Biscoe without first removing the wires from the station. It maintains that after December 1, 1962, communications, messages and reports of record continued to be handled by commercial telephone as had been done for the past 11 months. In short, it alleges there was a reduction in wages of approximately \$45.00 per month without change in duties. Petitioner claims restoration of rate of pay applicable to an agent-operator and payment for the wage loss, since Carrier did not remove the commercial telephone wire prior to the reduction in the Biscoe Agent's compensation. Furthermore, Petitioner contends that Carrier violated Article 32(b) when it classified the position by unilateral action.

Carrier denies violation of Article 13(b) and asserts that it has the right to use the commercial telephone for agency business.

Article 13 (b), upon which Petitioner relies to support its position, reads as follows:

"Where regular telegraph or telephone offices are discontinued as such and the wires removed, compensation will be adjusted to

conform to that of existing positions of similar work and responsibility."

This provision requires that as a condition for reclassifying a station to a non-telegraphic agency the wires be removed. At Biscoe the commercial telephone was used for carrying on local business with Carrier's patrons, as well as for train orders and message work. When Carrier decided to remove all the telegraphic duties from Biscoe, the need for the commercial telephone for general station business with patrons continued; therefore, Carrier retained the commercial telephone wire at Biscoe. Since the purpose for the commercial telephone was for general agency business, the removal of this wire would deprive Carrier of the use of a commercial telephone to conduct non-telegraphic business. There is no evidence in the record that after the reclassification Carrier utilized the commercial telephone for handling communications such as telegraph or telephone reports of record and train orders. The reclassification of the Biscoe agency without removal of the commercial telephone wire was not violative of Article 13 (b), for there was not a discontinuance of regular telegraph or telephone offices.

Furthermore, we find no basis for the contention that Carrier violated Article 32 (b) when it reclassified the position of agent-telegrapher and reduced the rate of pay without conference and negotiations because implicit in Article 13 (b) is the right of Carrier to reclassify stations under certain conditions.

For the reasons stated we hold that the Agreement was not violated.

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 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 13th day of October 1967.

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