



Award No. 15854
Docket No. TE-14584

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island and Pacific Railroad, that:

1. Carrier violated and continues to violate the Agreement between the parties when, effective November 1, 1962, it added new devices controlling train movements to its Root Street (Chicago, Illinois) interlocking plant, substantially increasing the duties and responsibilities of the towermen in said interlocking plant, but refuses to increase rates of pay for Root Street Towermen positions commensurate with the extent of the said duties and responsibilities.

2. Carrier shall be required to increase rates of pay for all Towermen positions at Root Street Tower, Chicago, by twenty (20) cents per hour, retroactive to November 1, 1962, in accordance with Rule 9 of the Agreement.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective August 1, 1947 (reprinted to include Interpretations and Special Agreements to November 1, 1956) as amended and supplemented, is available to your Board, and by this reference is made a part hereof.

The New York Central and Chicago, Rock Island and Pacific Railroads operate over the same, or joint, trackage between Englewood (63rd Street, Chicago), Illinois and Polk Street, Chicago. Interlocking Towers in this territory, all manned by Chicago, Rock Island and Pacific Railroad employees, who are subject to the Agreement between the parties to this dispute, are located at Englewood (63rd Street, Chicago), 61st Street, 45th Street, Root Street (at about 44th Street) and Polk Street.

This dispute evolves from the installation of new devices controlling train movements at Root Street Tower. Prior to November 1, 1962, New York Central Railroad Switch Tenders controlled and operated the entrance to the New York Central Coach Yard adjoining Root Street on the South.

a close on the property is the Carrier's responsibility. We will, of course, bring these facts to the attention of the Third Division.

Your decisions are rejected. These claims will be further progressed.

Yours truly,

/s/ Geo. W. Christian
General Chairman"

7. Rules 7 and 9, cited by the Organization, read:

"RULE 7.

RATES OF PAY TO BE MAINTAINED

The entering of employes into existing positions or the changing of their classification or work shall not operate to establish a less favorable rate of pay or condition of employment than is herein established."

"RULE 9.

NEW DEVICES - RATE ADJUSTMENT

When the operation of a device controlling train movements is added to any position, if additional duties and responsibilities of the position result, any additional allowance to cover such service will be predicated upon the extent of the increased duties and responsibilities."

OPINION OF BOARD: Effective November 1, 1962, the switchtender positions located at the entrance of the Carrier's Coach Yard at Root Street were abolished. The two switches formerly controlled by the switchtenders were replaced with power operated switches. A small box with two toggle switches for control were placed in the Root Street tower for operation by the towerman at that location. On November 20, 1962, the District Chairman presented the claim to the Tower Supervisor for an increase of twenty (20) cents per hour for all Towerman positions at the Root Street Tower. The claim was filed and handled in the usual manner up to and including the highest officer of the Carrier, and has been declined.

The Claimant relies on Rule 9 of the Agreement between the parties, quoted below:

"RULE 9.

NEW DEVICES - RATE ADJUSTMENT

When the operation of a device controlling train movements is added to any position, if additional duties and responsibilities of the position result, any additional allowance to cover such service will be predicated upon the extent of the increased duties and responsibilities."

The Organization, in support of its claim, contends that the switches formerly operated and controlled by the switchtenders were converted to the electrically controlled type; thereafter they were controlled by the Towermen by operating the toggle switches which had been added to the Tower; fur-

ther, that the changes in methods of operation, or addition of duties and responsibilities of operating added devices controlling train movements to a position or positions, is precisely what is referred to in Rule 9, quoted above.

The Carrier maintains the posture that no new device controlling train movements was added to the position in question, and that this in and of itself is the principal factor that activates Rule 9; that the new device must be in existence before an appraisal of increased duties and responsibilities is required to be made, and, that the addition of two toggle switch controls does not constitute such a "new device." Hence, Rule 9 is inapplicable.

We disagree with Carrier's contention in this case. A review of the evidence convinces us that prior to November 1, 1962, there were no devices in the Root Street Tower to control the movement of trains into and out of the coach yard. The electronically installed toggle switches were added to the Tower and the duties and responsibilities of operating them were given to the Towerman. We are unable, however, to ascertain precisely the extent of the increase of the duties and responsibilities resultant from the installation of the toggle switches. Even if the record itself were clear on this particular point, it is our conclusion that this Board does not have the authority to grant the increase requested by Claimant, because by doing so, we would be entering the rate-making or rate-fixing area, which we clearly have no authority to enter. We, therefore, remand this case to the parties, with instructions to enter into negotiations for an increase consistent with the intent and purpose of Rule 9 of the Agreement.

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 been violated.

AWARD

Remanded with instructions as per Opinion.

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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