



Award No. 15974

Docket No. TE-14697

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Central Railroad Company of New Jersey, that:

1. Carrier violated the Agreement between the parties when, effective with the end of tour of duty February 1, 1963, it declared "abolished" the positions of agent-operator at Lake Junction, New Jersey, and agent at Dover, New Jersey, when in fact the work of such positions remained and was required to be performed daily thereafter.

2. Carrier violated the Agreement between the parties when commencing February 4, 1963, and continuing thereafter, it merged, combined and consolidated the work, services and duties of the position of agent-operator at Lake Junction with the work, services and duties of the position of agent at Dover, New Jersey, and required an agent-operator to divide his time between the two stations.

3. Carrier shall be required to restore the full time agency position at Lake Junction and Dover to a minimum eight hour daily basis as each existed prior to February 1, 1963.

4. The regularly assigned occupant of Lake Junction agency, Mr. F. Tokash and Mr. K. L. Goff at Dover, who were thus improperly removed from their assigned positions, shall be restored thereto and be compensated in full for all monetary loss resulting from the Carrier's improper action in removing them from their regular assignments, and also paid for all expenses incurred, as well as travel and waiting time while working other positions until restored to their regular assigned positions.

5. All other employes displaced as a result of violations hereinbefore set out shall be compensated in the same manner as outlined in paragraph 4.

6. The senior idle employe, extra in preference, shall be paid one day's pay at the applicable rate at Lake Junction and Dover

on each and every day beginning February 1, 1963 and continuing thereafter until such violation is corrected.

7. Joint check of Carrier's records be ordered to ascertain and verify the names and amounts due employees as set forth herein.

8. Carrier shall compensate Agent J. H. Smith, or agent working in his place at Wharton, New Jersey, at the rate of position of agent-operator at Lake Junction, for each and every day he is required to perform the duties of the agent at Lake Junction, which is located in the same building. Commencing with February 4, 1963, the agent at Wharton, New Jersey, a separate and distinct agency, was ordered by the Supervisor of Stations to perform the duties of the agent at Lake Junction when that agent was out of the office, which is a good part of every day.

EMPLOYEES' STATEMENT OF FACTS: The parties' Agreement, dated June 15, 1944, is by this reference offered in evidence as part hereof. At page 28 of the Agreement, the rates of pay rule, the following listing is shown:

"Location	No. of Positions	Rate of Pay Per Hour
* * *		
Lake Jct., Agent Operator	(1)	\$0.90/*/
* * *		
Dover, Agent	(1)	1.04/*/"

(* - At time of claim filing, rates were, respectively,
\$2.5628 and \$2.7328 per hour)

This is a "dualization" claim. Effective February 1, 1963, Carrier unilaterally "abolished" the two above positions and created a single position in their place to work both locations.

The correspondence exchanged between the parties in the proper handling of this dispute is reproduced and shown on the following pages, numbered 3 through 15.

"THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

Jersey Central Terminal

Jersey City 2, N. J.

January 14, 1963 f

Mr. S. Adler, General Chairman
Order of Railroad Telegraphers
184 Water Street
Perth Amboy, New Jersey

Dear Sir:

As discussed, due to decline in business it is proposed to abolish the positions of Agent, Dover and Agent-Operator, Lake Jct. effective with the end of tour of duty January 25, 1963.

Also, on March 29, 1963, the General Chairman appealed the Superintendent's decision to the undersigned, which was denied on May 29, 1963 (see Exhibit H).

(Exhibits not reproduced.)

OPINION OF BOARD: On February 1, 1963, Carrier abolished the positions of Agent at Dover and Agent-Operator at Lake Junction and established a new position of Agent-Operator at Dover-Lake Junction, New Jersey, to handle the business of both the Dover and Lake Junction Agencies. The Agent-Operator was assigned to work at Dover between 8:00 A.M. and 9:45 A.M., and 2:15 P.M. to 5:00 P.M. His hours in Lake Junction were 10:00 A.M. to 2:00 P.M. He took lunch between 12:00 P.M. and 1:00 P.M., and was allowed 15 minutes for travel time between stations.

Petitioner claims Carrier violated the Agreement because it made a unilateral consolidation when in fact, the work of such positions remained and was performed thereafter by one Agent-Operator at two locations, Dover and Lake Junction, approximately 2½ miles apart. Petitioner relies on Articles 1, 20, 22, 25(c), 30, 31(d) and 47 to support his position. Petitioner also cites Award No. 6468, which involved the same parties and concerned the question of dualization.

Carrier denies violation of any Rules of the Agreement, and states that it abolished unneeded positions due to the decline of business and created a new position in accordance with the Agreement.

The Agreement does not include a provision prohibiting Carrier from abolishing positions when a decline in business no longer requires them. Furthermore, the Agreement does not preclude Carrier from creating a new position to which it assigns the remaining work providing the position is of the class and craft under the scope of the Agreement. In the instant case the work of the Agent-Operator at Lake Junction and of the Operator at Dover diminished so that a day's work for each of these employees was not available. Carrier, exercising its managerial prerogatives, abolished these positions and dualized them. It assigned the remaining work to the newly created position in conformity with the Agreement. Moreover, Carrier had the right to require the employee to perform the work at two locations. The issue of whether Carrier has the right to abolish two positions, consolidate the remaining functions of both positions, and establish a new position with assigned duties at two locations has been the subject of a number of Awards. The predominant number of these Awards have upheld Carrier's actions. See Awards Nos. 11589, 11594, 12377, 14742 and 15601.

With reference to Award No. 6463, cited by Petitioner to support his position, we find the factual situation is not comparable, for in this Award the Agent-Operator was required to suspend work at his regular location and to perform work at a place other than his regular assignment.

For the foregoing reasons we hold 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 30th day of November 1967.