

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION****(Supplemental)**

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)****ATLANTIC COAST LINE RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad, that:

1. Carrier violated the agreement between the parties when effective January 6, 1962, it declared "abolished" the position of clerk-telegrapher at Fitzgerald Passenger Station, Fitzgerald, Georgia, when in fact the work of such position remained and was required to be performed daily thereafter.

2. Carrier violated the agreement between the parties when commencing January 6, 1962 and continuing thereafter, it merged, combined and consolidated the work, services and duties of the position of clerk-telegrapher at Fitzgerald Passenger Station, Fitzgerald, Georgia, with the work service and duties of clerk-telegrapher's position at Westwood Yard, Fitzgerald, Georgia, and required one telegrapher to divide his time between the two stations located one and one-half miles apart.

3. Carrier shall be required to restore the full-time position at Fitzgerald Passenger Station and Westwood Yard to a minimum eight hours daily basis as existed prior to January 6, 1962.

4. The regular assigned occupant at clerk-telegrapher's position, S. D. Mingea and S. F. Murray, rest day relief operator, who were thus improperly removed from their assigned positions, shall be restored thereto and compensated in accordance with Article 8 of the Telegraphers' Agreement.

5. Telegraphers A. K. Connor, A. K. Meeks, V. B. Lummus and G. Burt, seniority in preference, shall be paid one day's pay at the applicable rate at Fitzgerald Passenger Station, Fitzgerald, Georgia, and Westwood Yard, Fitzgerald, Georgia, one each day, beginning January 6, 1962, and continuing thereafter until such violation is corrected.

Conferences have been held on the property concerning that proposal; however, no agreement has been reached.

During appeal of the instant claim, the Employees contended that Carrier cannot discontinue any position while their formal notice of November 8, 1961, is pending. Carrier disagrees with the Employees' contention, as it is not supported by the Railway Labor Act or the current agreement.

The claim here involved was first appealed to Carrier's Superintendent on February 16, 1962, and declined by him on March 7, 1962. It was then appealed to the Personnel Department, discussed in conference there on May 23, 1962, and remanded to the Superintendent, for further handling by the General Chairman with him. The claim was then discussed by the Superintendent and the General Chairman in conference on October 12, 1962; it was re-submitted by the General Chairman to the Superintendent on January 2, 1963, and discussed in conference once more by them on January 10, 1963. Thereafter, the claim was again declined by the Superintendent in his letter dated January 10, 1963, copy attached as Carrier's Exhibit A. It was thereafter declined at the higher level on the property and subsequently appealed to your Board.

Agreement in effect between the parties to this dispute dated November 1, 1939, is controlling. Copy is on file with your Board and by reference is made a part of this submission.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a companion claim to that involved in Award Number 16055. For the reasons set forth therein, this claim must be denied.

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 no violation of the Agreement occurred.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1968.

Keenan Printing Co., Chicago, Ill.

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