

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

Daniel House, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)****NEW YORK CENTRAL RAILROAD
(Western District)**

STATEMENT OF CLAIM: Claim of the General Committee of the Order of Railroad Telegraphers on the New York Central Railroad (Western District), that:

1. Claim for Mr. J. S. Irvin, incumbent prior to the abolishment of 1st shift wire chief at RT Office in Elkhart, Indiana, that he be paid beginning September 20, 1962, 8 hours each day he was suspended from his position, this violation stems from the fact that a portion of the work performed by J. Irvin was transferred to employees not covered by our Agreement, plus a violation of Article 41, in regard to wire chief's positions.

2. Carrier shall compensate the senior idle employee (extra in preference) for 8 hours each day commencing on September 20, 1962 until the violation is corrected as shown in District Chairman's letter of November 9, 1962 to Mr. N. K. Cain, Chief Dispatcher.

EMPLOYEES' STATEMENT OF FACTS: Effective August 23, 1962, the positions of ticket agent and wire chief located at Elkhart Depot, Elkhart, Indiana were consolidated into a reclassified position that was assigned to work Monday through Friday, 5:45 A.M. to 1:45 P.M. Telegrapher H. V. Kantz was assigned to the combined position. Although Mr. Kantz passed the wire chief's examination as provided in Article 41 of the Telegraphers' Agreement, because of inexperience the Carrier has not assigned the performance of the wire chief's work to him. The Carrier was presented with evidence that W. Flickinger and H. Hill, who are employees of the Communication Department not covered by the Telegraphers' Agreement, were daily performing the work formerly performed by Operator J. S. Irvin who was the occupant of the wire chief's position before the positions were consolidated. Furthermore, evidence was presented to Superintendent Palmer, which was not denied by the Carrier, that the timekeeping and payroll work was being performed by Clerk J. H. Shellenberger in the office of the Terminal Superintendent since the

positions have been consolidated. Furthermore, other communication work that was formerly performed by the wire chief has now been transferred between two other telegraph offices in the area, namely B Tower and BC Office.

As a result of the wire chief's work being performed now by other than telegraphers, claim was instituted in behalf of J. S. Irvin, the former wire chief, on the grounds that the Carrier has simply suspended him from his position rather than consolidated the work to be performed by Operator Kantz. The claim was appealed to the highest officer designated by the Carrier and declined by him. Claim is now properly before your Board for final adjudication.

CARRIER'S STATEMENT OF FACTS: There is in evidence an agreement between the parties, bearing an effective date of November 1, 1950, containing rules and working conditions applicable to Telegraphers' agreement employees on Seniority Districts 1 to 10 inclusive. This agreement was reprinted as of January 1, 1955.

Seniority District No. 6 described on Page 38 of the above-mentioned agreement includes Telegraphers' agreement employees at locations on the Carrier's Main Line West of Elkhart, Indiana to and including Chicago, Illinois. Elkhart "B" Tower and Elkhart "RT" Office, the points of this dispute, are located in this District.

Prior to the date of claim the Carrier maintained an Operator-Wire Chief position, rate \$2.9748 per hour, and a Ticket Agent-Operator position, rate \$2.7048 per hour, in Elkhart, Indiana passenger station. Both of these positions worked during the first trick hours.

The Carrier determined there was an insufficient amount of work to be performed to warrant the two positions and effective August 23, 1962 the positions were abolished. Effective the same date a position of Ticket Agent-Wire Chief was established at the same location for the purpose of performing the duties formerly performed by the two separate positions. The newly established position was bulletined to Telegraphers' agreement employees on the same seniority district at the rate of \$2.9748, the higher of the two former rates.

Claimant J. S. Irvin was the incumbent of the former Operator-Wire Chief position and as a result of the abolishment of that position he exercised his seniority under the agreement and displaced on a third trick position in an interlocking tower in Elkhart. He did not bid on the newly established Ticket Agent-Wire Chief position and it was awarded to an employee junior in seniority to claimant Irvin.

Subsequently the organization presented claims on behalf of J. S. Irvin for eight hours each day on the basis he was suspended from his position of Wire Chief-Operator; there is also a claim for the senior idle employee for eight hours each day commencing September 20, 1962 until the alleged violation is corrected.

These claims are subject to the instant dispute now before your Board.

OPINION OF BOARD: Effective August 23, 1962, at Elkhart Depot, the positions of ticket agent and wire chief were consolidated into a single position;

Claimant's position until then as wire chief was thus abolished. Telegrapher Kantz was properly assigned to the combined position. Organization claims that the abolishment of the wire chief position was not proper and that consequently Claimant was in effect improperly suspended from it. Organization's case depends on its claim that work belonging to the Organization and formerly performed by the wire chief has since the abolishment been performed by employees not covered by the Agreement. Carrier denied that this was the fact and the record contains no proof that it was the fact. The burden of proving facts adequate to support its claim was Organization's, and it failed to carry that burden.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of February 1968.