

Award No. 16743

Docket No. TE-15171

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

(Supplemental)

Milton Friedman, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**
(Formerly The Order of Railroad Telegraphers)**SOO LINE RAILROAD COMPANY****STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Soo Line Railroad, that:

1. Carrier violated and continues to violate the Agreement between the parties when on June 19 and 26, 1963 (and subsequent dates), it required or permitted employes not covered by the Agreement to handle communications of record at Manitowoc, Wisconsin.

2. Carrier shall, commencing on June 19, 1963, and continuing until the violations outlined above are corrected, compensate the occupant of the position of Operator at Manitowoc, Wisconsin, for a call on each date that such violations occur at that station.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective July 1, 1956, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

These claims arose out of Carrier's action in requiring or permitting an employe not subject to the Agreement to handle messages at Manitowoc, Wisconsin. Manitowoc is the terminal point of a branch line extending 44.2 miles from Neenah, Wisconsin. There is telegraphic service at this location, seven days per week. Clerical and other positions are located at Manitowoc, not covered by the Telegraphers' Agreement.

Prior to June 19, 1963 Claimant Meacham was assigned to work 6:30 A. M. to 3:30 P. M., with one hour for meal period, and it was the duty of the Telegrapher to perform all the communication work, including the handling of messages, such as those now being handled by a clerical employe at Manitowoc. Effective June 19, 1963 or perhaps prior thereto, the assigned hours of Mr. Meacham were changed to 8:00 A. M.-5:00 P. M., with one hour for lunch. Effective June 19th and continuing thereafter, a clerical employe at Manitowoc, was instructed to call the telegrapher at Neenah and copy a train consist of train No. 46. The copying of such messages was a duty of claimant Meacham prior to the date his assigned hours were changed. Cor-

responsidence between the parties reflecting the handling of the claim on the property is attached hereto as ORT Exhibits 1 through 12.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Manitowoc, Wisconsin, is the distant terminal of a 44-mile branch line connecting with Carrier's main line at Neenah, Wisconsin. It is a port on the Western shores of Lake Michigan where, in addition to serving industry located thereat, Carrier interchanges traffic with the Ann Arbor and Chesapeake and Ohio, which roads operate car ferries to ports on their lines across the lake. This branch line is served by daily wayfreight trains in each direction—Train No. 46 is scheduled to depart from Neenah at 1:30 A. M.

For some time the car ferry companies have requested advance information as to the number of loads and empties that will be arriving on Train 46 for delivery to them. Ordinarily this information was telegraphed from Neenah and received by the telegraph operator at Manitowoc during the early part of his tour of duty which commenced at 6:30 A. M. On February 25, 1963, the telegrapher's hours were changed to start at 8:00 A. M. For a while the telegrapher continued to obtain the information desired by the car ferry companies, but ultimately the car ferry companies requested that this information be obtained prior to the telegrapher's assigned hours, whereupon arrangements were made to have this information telephoned to Manitowoc where it was received by a yard clerk who came on duty at 6:30 A. M.

In June of 1963, Telegraph Operator N. E. Meacham filed claims for a call on June 19 and 26, 1963, alleging violation of his rights under the Telegraphers' contract by reason of a clerk receiving by telephone information which the claimant once had received by telegraph.

Copies of schedule agreement between the parties to this dispute, effective July 1, 1946, and supplements thereto are on file with the Board and are made a part of this record by reference.

OPINION OF BOARD: Prior to the change in Claimant's hours from a starting time of 6:30 A. M. to 8:00 A. M., he had daily obtained from the Neenah operator the count of loads and empties on Train No. 46, which he then phoned to the boat lines and the switch engine. After the changed hours, a clerk who reported at 6:30 A. M. handled these communications.

The Organization contends that Carrier has violated the Scope Rule by requiring a clerk to do telegrapher's work, on the ground that these are communications of record which relate to the control of transportation. Carrier denies that communications of record are involved, and also asserts that telegraphers have not had exclusive jurisdiction over such communications.

On the property Carrier asserted that other clerks have obtained information of the kind involved here. When the Organization asked where this was done, Carrier replied that "any place where we have I.D.P. machines, that work again does not belong exclusively to operators, and yet they receive information on what the consist of trains arriving would be." Carrier's statement was unchallenged thereafter.

In similar cases this Board has held that the burden of proof rests with the Organization, which must establish its system-wide exclusivity in handling

the communication at issue. (Awards 14538, 16502.) Since the Organization has not sustained its burden, the claim cannot be sustained.

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 8th day of November 1968.