



Award No. 16775
Docket No. TE-15889

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Jan Eric Cartwright, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

SOO LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Soo Line Railroad, that:

1. Carrier violated the Agreement between the parties hereto, when on the dates shown in paragraph two (2) hereof, it required or permitted an employe not covered by the parties' Agreement to perform work on the Agent and Operator's position at Cooks, Michigan, a one-man agency.

2. Carrier shall, because of the violation set forth in paragraph one (1) hereof, compensate the following named Telegraphers for eight (8) hours for each of the dates shown at the Cooks Agent and Operators revised pro rata rate:

L. E. Turner — September 28, October 5, 12, 19, 26,
November 2, 9, 16 and 23, 1964.

C. J. Cook — September 29, 30, October 6, 7, 13, 14,
20, 21, 27, 28, November 3, 4, 10 and
11, 1964.

K. G. Kositzky — October 1, 2, 8, 9, 15, 16, 22, 23, 29, 30,
November 5, 6, 12 and 13, 1964.

EMPLOYEES' STATEMENT OF FACTS: An Agreement by and between the Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, hereinafter referred to as Carrier, and its employes represented by the Transportation-Communication Employees Union (formerly The Order of Railroad Telegraphers), hereinafter referred to as Employes and/or Union, bearing effective date of July 1, 1956, as amended and supplemented, is available to your Board and is by this reference made a part hereof.

At page 46 of said Agreement under Rule 30 (Rates of Pay) is listed the position in existence at Cooks, Michigan on the effective date of said Agreement. For ready reference the listing reads:

Mr. Nelson was first employed by the Soo Line as a station helper at Hawkins, Wisconsin, in June of 1946. He was displaced from this position by a returning veteran in October, 1947, but was re-employed May 1, 1948. Despite being bounced around from Hawkins to Shawano, Ladysmith and Gladstone account job abolitions, displacement by senior employees, etc., Mr. Nelson's employment was quite steady until the position of second warehouseman, which he held at Gladstone was abolished on February 22, 1963. On June 26, 1963 (two days after his 60th birthday) Mr. Nelson was the successful bidder on the position of relief clerk at Gladstone, only to be displaced by a senior employee on July 1, 1963.

After over a year of idleness, Mr. Nelson was called for two weeks' vacation relief service as a clerk-caller at Gladstone. This service ended on September 23, 1964, and he returned again to the furloughed ranks, remaining there until employed as Agent at Cooks, Michigan, on September 28, 1964.

Claimants C. J. Cook and K. G. Kositzky are regularly assigned telegraphers at Gladstone, Michigan, a distance of some 32 miles from Cooks, Michigan, and Claimant L. E. Turner, regularly assigned telegrapher at Waupaca, Wisconsin, approximately 215 miles from Cooks.

Copies of schedule agreement, effective July 1, 1956, and supplements thereto, between the parties to this dispute, are on file with the Board and are made a part of this record by reference.

OPINION OF BOARD: This case concerns the use of an employee of a different craft, namely a furloughed or displaced member of the Clerks' Craft, to fill an emergency vacancy on a Telegrapher's Craft position, there being no extra employees available. Three individual Claimants made claims for the position during the dates involved, all being regularly assigned Telegraphers.

Carrier contends that the use of the said Clerk in this instance automatically brought him under the Telegraphers' Agreement. The Organization contends it is not a bona fide hiring of a Telegrapher, but a crossing of the craft lines.

There is no rule in the Agreement preventing the Carrier from employing a displaced or furloughed employee of another craft. The employee was NOT SHOWN to have been working in two crafts at the same time. There has not been a sufficient showing, in this instance, that the furloughed Clerk was not a bona fide new employee covered by the Agreement.

In light of the above, we conclude that the Agreement was not violated and therefore the claim should 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 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 12th day of November 1968.