



Award Number 17375

Docket Number TE-14994

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

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

NORFOLK AND WESTERN RAILWAY COMPANY
AND
RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Norfolk & Western Railway, that:

1. The Railway Express Agency, Inc., and the Norfolk & Western Railway, joint and severally violated or were a party to violating the terms of an Agreement between the parties hereto when effective May 3, 1963, they or it discriminated against the Norfolk & Western Agents when without just cause they or it caused to have removed in whole or in part the express business from its joint railway express agency at Hollins, Virginia.
2. The Railway Express Agency, Inc., and/or the Norfolk & Western Railway shall restore the joint railway express agency at Hollins, Virginia to its status prior to May 3, 1963 and compensate the occupant of the joint railway express agency, R. W. Floyd, and/or his successor, an amount equivalent to all commission on express shipments improperly diverted from said agency.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the Norfolk & Western Railway Company, hereinafter referred to as Carrier, and its Telegraphers, represented by The Order of Railroad Telegraphers, hereinafter referred to as Employees and/or Organization, governing rates of pay, rules and working conditions, effective February 16, 1958, and as amended.

There is also in evidence an Agreement between the Southern Express Company Agents and certain Agents on the Carrier, who are jointly employed as railway and express Agents on the Norfolk & Western Railway Company. (Copy attached as ORT Exhibit 1).

Copies of all of the aforesaid Agreements, as required by law, are assumed to be on file with this Board, and are, by this reference, made a part thereof.

HISTORICAL DATA

The first Agreement between the Southern Express Company, hereinafter referred to as Express Company, and certain Agents on Carrier's

when effective May 3, 1963, they or it discriminated against the Norfolk and Western Agents when without just cause they or it caused to have removed in whole or in part the express business from its joint railway express agency at Hollins, Virginia.

"2. The Railway Express Agency, Inc., and/or the Norfolk and Western Railway shall restore the joint railway express agency at Hollins, Virginia to its status to May 3, 1963, and compensate the occupant of the joint railway express agency R. W. Floyd and/or his successor, an amount equivalent to all commission on express shipments improperly diverted from said agency."

The Carrier declined the claim.

(Exhibits not reproduced)

OPINION OF BOARD: This dispute involves a contention by the Employees that extension of pick-up and delivery limits of the Carrier's general express agency at Roanoke, Virginia, to include territory formerly serviced by the joint agent at Hollins, Virginia, violated their agreement with the Carrier and resulted in loss of compensation to that agent, the Claimant.

The Employees rely heavily on their showing in a prior case, Docket TE-13480, which was pending but undecided at the time the present dispute was submitted to the Board. They say the present case is essentially similar to that in Docket TE-13480. That dispute was decided in favor of the Carrier by Award 14630.

This Division has held in a number of Awards that in the absence of a rule to the contrary Carrier is free to extend the limits of pick-up and delivery service for express shipments even though such action reduces or eliminates commissions of a joint agent. Awards 6798, 16076, 16080.

Having carefully considered the agreement here involved, and finding no rule which prohibits the action complained of, the claim must be denied.

Having reached this conclusion, it is not necessary to consider the Carrier's technical and procedural arguments.

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.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 1st day of August 1969.