

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Chicago and Illinois Midland Railway Company, that:

CLAIM NO. I

1. Carrier violated the Agreement between the parties when it assigned an employe from another craft to fill a temporary vacancy on the Agent-Telegrapher position at Pawnee, Illinois, commencing July 17, 1967 through July 28, 1967, for a period of ten (10) working days.
2. Carrier shall, as a result, compensate the following senior employes who were available to work on their rest days, at the time and one-half rate of the Agent-Telegrapher position at Pawnee, Illinois for the following dates:

July 17 and 24	J. M. Ruggles
July 18 and 25	T. J. Rodden
July 19 and 26	G. R. Hinrich
July 20, 21, 27 and 28	V. D. Pilgrim

CLAIM NO. II

1. Carrier violated the Agreement between the parties when it assigned an employe from another craft to fill a temporary vacancy on the Agent-Telegrapher position at Pawnee, Illinois, on August 7, 1967.
2. Carrier shall, as a result, compensate J. M. Ruggles, senior idle employe who was available to work on his rest day, eight hours' pay at the time and one-half rate of the Agent-Telegrapher position at Pawnee, Illinois, for August 7, 1967.

CLAIM NO. III

1. Carrier violated the Agreement between the parties when it assigned an employe from another craft to fill a temporary vacancy

on the Agent-Telegrapher position at Pawnee, Illinois, on October 16, 17, 18, 25, 26 and 27, 1967.

2. Carrier shall, as a result, compensate the following senior idle employes who were available to work on their rest days, at the time and one-half rate of the Agent-Telegrapher position at Pawnee, Illinois, on the following dates:

October 16	J. M. Ruggles
October 17, 18 and 25	T. J. Rodden
October 26 and 27	V. D. Pilgrim

CARRIER DOCKETS: MP TCEU 53-B - BU-13248-95
MP TCEU 53-C - BU-13247-95
MP TCEU 53-C - BU-13249-95

EMPLOYEES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

The Agreement between the parties, effective November 1, 1946, as supplemented and amended, is on file with your Board and by this reference is made a part hereof.

The claims herein were timely presented, progressed, including conference with the highest officer designated by the Carrier to receive appeals, and have been declined. The Employes, therefore, appeal to your Honorable Board for adjudication.

The claims arose when Carrier entered into an agreement with the General Chairman of the International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers, J. E. Coady, who also held a regular assignment as a laborer holding seniority under the agreement between the Carrier and that Organization, whereby he would be transferred to the telegraph department to perform service as a telegrapher employe effective May 23, 1967 through December 31, 1967 and during this period his seniority rights under the Shop Crafts Agreement would be preserved by considering him as being on leave of absence from that class of service while working as a telegrapher.

The Carrier first advanced the theory to the representative of this Organization that Mr. Coady was only to be used as a vacation relief employe on May 3, 1967. However, he was permitted to establish a seniority date under the Telegraphers' Agreement on the telegraphers' seniority roster on April 22, 1967, and the Carrier admits that he had completed sixty days of compensated service as a telegrapher on that date, prior to both the Carrier's advisement to the Organization of the intent to use Coady as a vacation relief employe and the date of the agreement between Coady and the Carrier consummating the understanding he would continue to hold seniority under the Shop Crafts Agreement and be considered on leave of absence while working as a telegrapher.

The agreement between Coady and the Carrier permitting him to perform service under the Telegraphers' Agreement while continuing to hold a position and accumulate seniority under the Shop Crafts Agreement was finalized on May 23, 1967. However, the circumstances seem to indicate this understanding

seniority as a telegrapher. Each were progressed and collectively appealed by the General Chairman to the Manager of Personnel for conference on January 23, 1968. The Manager of Personnel, likewise collectively, declined all of the so-called "Coady claims" by decision in Case No. MP-TCEU-53 (EXHIBIT "E" 4 sheets).

(c) Due to the volume of vacation/seniority correspondence with respect to this dispute, the carrier's defense to the claims concerning the use of Coady as an extra and relief telegrapher has been limited to the last known principal contentions of the organization as set forth in Mr. Brown's letters dated May 10, 1968, samples attached as EXHIBIT "G 5581-5585" and EXHIBIT "H 5581-5585" to which the carrier, as evidenced by EXHIBIT "F," has already advised it did not concur.

(Exhibits not reproduced.)

OPINION OF BOARD: One, J. L. Coady, had over thirty (30) years seniority under an Agreement between Carrier and the International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers. Carrier's assertion that he also established seniority dating from April 22, 1967, under Telegraphers' Agreement stands uncontroverted in the record.

The cornerstone of Telegraphers' arguments in support of its allegations of violations of its Agreement, on the dates specified in the Claims, is that Coady's assignments were wrongful in that they constituted a crossing of craft or class lines. If this proposition is not sound the Claims are without merit.

Inasmuch as Telegraphers' Agreement does not bar a covered employe from having co-existing seniority in another craft or class there was no *de jure* crossing of craft or class lines when Coady, having acquired seniority under that Agreement, was assigned to Telegrapher positions as per the terms of that craft's collective bargaining agreement. Therefore, we will deny the Claims.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1970.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.