

Award No. 19101
Docket No. TE-15447

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION
EMPLOYEES**

(Formerly Transportation-Communication Employees Union)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Company (Pacific Lines), that:

1. Carrier violated the agreement between the parties when it transferred the work of the second and third shift Telegrapher-Clerk positions at Delano, California, to employees not covered by said agreement and improperly declaring the positions abolished.

2. (a) Carrier shall compensate H. L. Harshman in the amount of eight hours pay on each work day of the second Telegrapher-Clerk position, plus actual expenses, commencing on June 6, 1962 and continuing thereafter until the violation ceases.

(b) Carrier shall compensate D. F. Ringler in the amount of eight hours pays on each work day of the third Telegrapher-Clerk position, plus actual expenses, commencing on June 8, 1962 and continuing thereafter until the violation ceases.

EMPLOYEES' STATEMENT OF FACTS: The agreement between the parties effective December 1, 1944, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Delano, California, is a station on the San Joaquin Division of this Carrier's lines. Prior to June 2, 1962, there were three basic positions under the Agreement at Delano. Agent-Telegrapher — 8 A. M. to 4 P. M.; second telegrapher-clerk — 4 P. M. to 12 Midnight; third telegrapher-clerk — 12 Midnight to 8 A. M. Effective June 2, 1962, the Carrier declared the positions of second and third telegrapher-clerk abolished. Effective June 4, 1962, the Carrier established two clerical positions, under the Clerks' Agreement, starting at 4. P. M. and 12 Midnight, to perform the work formerly performed by the occupants of the second and third telegrapher-clerk positions at Delano. This change was made concurrent with the establishment of centralized traffic control as a method of moving trains through this territory, which drastically reduced the use of train

By letter dated September 25, 1962 (Carrier's Exhibit "D"), Petitioner's General Chairman presented claim on appeal to Carrier's Assistant Manager of Personnel, and under date of March 19, 1964 (Carrier's Exhibit "E"), the latter denied the claim.

(Exhibits not reproduced.)

OPINION OF BOARD: On June 2, 1962, two positions of Telegrapher-Clerk at Delano, California, were abolished. This action took place upon conversion of the territory involved from train order operation to operation by means of Centralized Traffic Control, and elimination of train order work at Delano.

Prior to abolishment of these positions the incumbents performed various duties of a clerical nature in addition to their telegraphic work. Seasonally, one or more clerical positions were established to assist with increased clerical work, and this has continued since the telegrapher positions were abolished.

The basis of the claim is a contention that Carrier violated the telegrapher's agreement when it abolished the telegraphers' positions without discontinuing all of the work assigned thereto; and the subsequent assignment of the clerical work to newly established clerk positions.

Upon presentation of the claim to this Board and Employees introduce argument to the effect that the clerical employees are performing certain communication work that belongs to telegraphers. No such contention or showing was specifically made during handling on the property, and Carrier objects to its injection at Board level.

Carrier's objection must be sustained on the authority of a multitude of awards holding that only issues that were raised during handling on the property may properly be considered by the Board.

Both parties rely on Award 615. That award examined at length the rights of telegraphers and clerks with respect to clerical work in connection with telegraphic work, concluding as follows:

"It follows from what has been said that likewise on the complete disappearance of telegraphic work, a position till then occupied by a telegrapher-clerk must be thrown open to bidding to the clerks instead. It automatically becomes a clerks' position on the disappearance of the telegraphic duties."

The record of handling the present case on the property does not show that petitioner attempted to establish by any admissible evidence that any telegraphic duties were actually transferred to or performed by clerks. The claim, therefore, must be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March 1972.