

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24751
Docket Number CL-24746

Robert Silagi, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9626)
that:

(1) Carrier violated the Clerk-Telegrapher Agreement in effect between the Parties when, on June 25, 1981, it removed the work of operating switches and signals governing the movement of trains heading-in and out of main line and other tracks at and within the station limits of "WR" Tower, New River Junction, Hamilton, Ohio, from employees covered by the Clerk-Telegrapher Agreement and assigned the performance of such work to employees not within Agreement coverage; and

(2) Carrier shall be required to restore said work to the scope of the Clerk-Telegrapher Agreement to be performed by Employees covered thereby; and

(3) For each and every eight (8) hours shift that the work previously performed by employees covered by Clerk-Telegrapher Agreement at New River Junction, Hamilton, Ohio, is performed by Train Dispatchers (not covered by the Agreement) at Dayton, Ohio, commencing June 25, 1981, Carrier shall be required to compensate the following involved covered employees as hereinafter indicated:

(a) Mr. R. H. Brock for eight (8) hours pay at the rate of first shift position C-204 at "WR" New River Tower each work day, (\$79.23) plus subsequent wage increases.

(b) Mr. J. A. McDaniel for eight (8) hours pay at the rate of second shift position C-205 at "WR" New River Tower each work day, (\$79.23) plus subsequent general wage increases.

(c) Mr. D. E. Haven for eight (8) hours pay at the rate of third shift position C-206 at "WR" New River Tower each work day, (\$79.23) plus subsequent general wage increases.

(d) Miss J. L. Altendall for eight (8) hours pay at the rate of Relief position C-207 at "WR" New River Tower each work day, (\$79.23) plus subsequent general wage increases.

(e) Mr. R. W. Gray for eight (8) hours pay at the rate of Relief position C-240 at "WR" New River Tower each work day, (\$79.23) plus subsequent general wage increases.

OPINION OF BOARD: This case involves a technological change in equipment which resulted in the displacement of Operator-Clerks. The facts are not in dispute.

Starting in the 1930's the Carrier began installing on its property a system for full remote control of switches known as Centralized Traffic Control (CTC) or, more recently called, Traffic Control System (TCS). This system consolidates switch and signal controls for large sections of railroad lines onto an electric control panel operated by a dispatcher. It allows a dispatcher to line a route for a train over a long distance without the need for train orders at points between dispatchers' stations. The installation of TCS resulted in the closing of numerous towers which in turn caused the abolishment of positions of Operator-Clerks for once the need for train orders and lever operators was gone, the primary duties of Operator-Clerks at a tower disappeared.

For more than 60 years there was an interlocking plant and communications tower designated as "WR" Tower, New River Junction, located 2.5 miles south of and within the switching limits of Hamilton, Ohio. A system of hand-thrown levers in the tower activated switches that allowed trains to change from one track to another. The levers were manned by Operator-Clerks, one per shift, three shifts per day, seven days a week. The Operator-Clerks also received and transmitted certain consist information, copied train orders from the dispatchers at Dayton and performed related tasks.

On December 4, 1980 a derailment demolished the tower and destroyed the equipment in it. A temporary mechanism had to be installed and some of the switches hand-thrown. The destruction of the tower precipitated a decision to convert the interlock to TCS. This would allow the Dayton dispatcher to control switches and signals all the way into Hamilton, a distance of about 30 miles. The conversion was completed on June 25, 1981 and the Carrier transferred all control apparatus of the signal indication system from handling by the Operator-Clerks in Hamilton to Train Dispatchers located at Dayton. Duties relating to consist information, etc., were reassigned to Operator-Clerks at other towers in the Hamilton area. On August 4, 1981, the Brotherhood filed its claim alleging a violation of the Agreement and demanding that the control of switches and signals at New River be restored to the Operator-Clerks.

The Organization asserts that employees covered by the Clerk-Telegrapher Agreement by historical agreement, tradition, custom and practices have performed the work in dispute at the WR Tower. Carrier's transfer of such work to dispatchers at Dayton violates Rule 1(c) of the Scope Rule, which reads in pertinent part:

"When a position covered by this Agreement is abolished, the work assigned to same which remains to be performed will be reassigned in accordance with the following:

- (1) To position or positions covered by this Agreement when such position or positions remain in existence at the location where the work of the abolished position is to be performed.
- (2) In the event no position under this Agreement exists at the location where the work of the abolished position or positions is to be performed, then it may be performed by a Yardmaster, Foreman, or other supervisory employee, provided that less than four (4) hours' work per day of the abolished position or positions remains to be performed; and further provided that such work is incidental to the duties of a Yardmaster, Foreman, or other supervisory employee."

The Carrier asserts that the Organization failed to sustain its burden of proving that it has any contractual right to operate TCS panels in dispatchers' offices. Without prejudice to the position stated above, Carrier claims that its agreement with the American Train Dispatchers Association specifically gives the dispatchers the exclusive right to operate TCS panels located in Dispatcher offices. Hence no Operator-Clerk has ever operated a TCS panel located in a dispatcher's office. Said agreement, as revised October 1, 1981, states:

"Article 1(c) - Traffic Control System:

Traffic Control System machines at present in service and in future installed will be manned and operated by train dispatchers when such machines are located in offices where train dispatchers are now, or in future may be employed. When a TCS machine is not located in an office where train dispatchers are employed and it is manned and operated by other employees, a train dispatcher shall have and exercise complete authority over the movement of trains and shall control and direct all train movements in such territory."

The Organization states that the Scope Rule in its Agreement is unique in that it requires the work of abolished positions to be passed onto other clerk positions if they in fact exist at the location where the clerk positions were abolished. The Brotherhood notes that there are more than 30 clerk positions in the Hamilton Terminal.

The Carrier argues that Rule 1(c) is not controlling because it is applicable only to work which "remains to be performed". All lever work at WR Tower disappeared with its destruction and was supplanted by a TCS panel. The lever work cannot be restored to Clerks because it no longer exists.

The Organization responds that turning a knob to activate a switch is the equivalent of "flopping" a switch. In this regard the Organization alleges that the Carrier violated Rule 18 - Installation of Machines:

"(a) When and where new types of machines or mechanical devices of any kind are used for the purpose of performing work not previously handled by such machines, coming within the Scope of this Agreement, such work will be assigned to employees covered by this Agreement."

The Carrier concedes that the function of switching remains, however, it is carried out automatically over large sections of road when the dispatcher at Dayton lines a train route on the TCS panel by pressing a button. Thus where 3 or 4 towers with levers manned by Operator-Clerks were needed, that same section may now be lined by TCS, automatically, without train orders. In similar disputes allowing technological changes the Carrier cites two awards as precedents, Third Division Award 20795 (Blackwell) and Public Law Board 2555, Award No. 1 (Seidenberg). It is clear that the jobs of the Operator-Clerks at WR Tower were abolished because there was no work left there for them to do, Award 19767 (Rubenstein).

In a dispute involving the abolition of leverman jobs at an interlocking plant and the transfer of the resulting work to dispatchers operating under Centralized Traffic Control at a different location this Division held that the positions described in the Scope Rule such as "towerman" or "leverman" do not apply

to the operation of TCS machines in dispatchers' offices, (Award 10725 (Ables). This Division has also held that where the operation of TCS panels in dispatchers' offices belongs to Train Dispatchers, by agreement, and no provision gives Operator-Clerks such work, the latter have no valid basis to claim such work, Award 19068 (Dorsey), Award 8660, (Guthrie).

Pursuant to notice from the Third Division to the American Train Dispatchers Association advising said Association of the pendency of the instant dispute, the Association filed a third party submission. The Association affirms the position of the Carrier by claiming the operation of TCS at Dayton as belonging to its members under Article 1(c) of its agreement with the Carrier.

Relying upon the awards cited above, this claim will 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

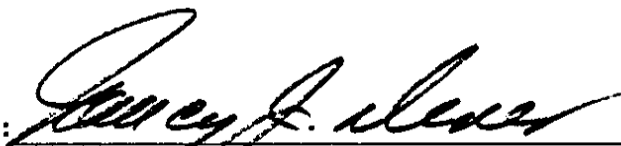
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March, 1984.

