

Award No. 61
Docket No. 61

MOP File 380-1705
ORT File 1276

SPECIAL BOARD OF ADJUSTMENT NO. 117

ORDER OF RAILROAD TELEGRAPHERS
and
MISSOURI PACIFIC RAILROAD COMPANY

Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad that:

1. Carrier violated the terms of the agreement between the parties when it arbitrarily reclassified the position of Agent-Telegrapher at Chidester, Arkansas, to that of Agent-Restricted Operator, effective February 17, 1956.
2. Carrier violated the agreement when effective February 17, 1956, it reduced the rate of pay of the Agent-Telegrapher at Chidester, Arkansas, from the rate in effect on February 17, 1956, to \$1.805 per hour without agreement between the parties.
3. Carrier shall restore classification of Agent-Telegrapher to the position at Chidester, Arkansas, effective February 17, 1956.
4. Carrier shall pay C. C. Terry, or the incumbent at Chidester, the difference between the amount paid since February 17, 1956, and the agreed to rate of Agent-Telegrapher to which he was entitled.

OPINION OF BOARD: This claim concerns the propriety of the Carrier's action in reclassifying the position of Agent-Telegrapher at Chidester, Arkansas, to that of Agent-Restricted Operator, such reclassification occurring on February 17, 1956, with a corresponding reduction in the hourly rate from \$1.805 to \$1.66. Request is made that the Board order the restoration of the classification of Agent-Telegrapher at said place, together with reparations in the difference in the hourly rate.

The Organization contends that the effective agreement was violated by the arbitrary action of the Carrier when it reclassified the position of Agent-Telegrapher to that of Agent-Restricted Operator at Chidester, Arkansas, inasmuch as there had not, in fact, been substantial decreases in the duties and responsibilities of the position of Agent-Telegrapher at Chidester, Arkansas, to the degree contemplated by Rule 2 to warrant the action taken by the Carrier.

The Carrier takes the position it is not required to seek an agreement with the Organization prior to the reclassification of positions pursuant to the provisions of Rule 2(f-2), provided there are substantial decreases in the duties and responsibilities of a permanent nature for a reasonable period. It is the further position of the Carrier that the elimination of train order work, and the duties and responsibilities incident thereto, from the position of Agent or Agent-Telegrapher constitutes such substantial decreases or substantial changed conditions of a permanent nature contemplated by Rule 2(f-2).

Rules relied upon by the parties here were 2(b), 2(c) and Note, 2(d) and 2(f-2), said rules reading as follows:

"Rule 2. (b) When additional positions are created the rate of pay will be fixed in conformity with positions of the same class as shown in wage scale on the seniority district where created, except that in offices where two or more telegraphers are employed (not counting the agent or agent-telegrapher as one of the two) the rate of pay will not be less than the lowest rate in that office."

"Rule 2. (c) At small non-telegraph or non-telephone agencies it will be permissible at the option of the carrier to require the agent to handle Western Union service, railroad communication service confined exclusively to the transmission of car orders and securing reports on the probable arrival of trains for bulletin board information. Where such service is exacted the classification of the agent will be identified as agent-restricted operator and rated \$1.365 per hour (\$1.49 per hour effective Feb. 1, 1951).

"NOTE: It is agreed that the communication service herein provided for does not permit of the handling of train orders and railroad messages of record, the OS'ing of trains and other communications ordinarily handled as between telegraph operators and telegraph operators and dispatchers, except in an emergency; in the latter case the rate of pay for that agency for the day shall be the minimum rate for telegraphers on that division."

"Rule 2. (d) When agent-telegrapher positions are reclassified to small non-telegraph agencies, all railroad telegraph and telephone circuits leading to the office and the instruments therein, except such as are necessary for purposes and under conditions expressed in section (c) hereof, shall be removed from the office within ten days from date of reclassification."

"Rule 2. (f-2) The rates of pay, either hourly or monthly herein tabulated, are fixed with due regard to conditions existing as of the effective date of this agreement, but it shall not preclude the reclassification of agents or agent-telegraphers to that of small non-telegraph agents where substantial decreases in the duties and responsibilities of a permanent nature continuously accrue for a reasonable period; neither will it preclude the changing in classification of positions and adjustment in rates of pay to meet substantial changed conditions of a permanent nature for a reasonable period that require increased or decreased duties and responsibilities of employees. Where positions are reclassified rates of pay established therefor shall be fixed in conformity with Rule 2-(b) by agreement between the parties of this agreement."

The Board is of the opinion that while the facts here are somewhat dissimilar, the rules and controlling principles here existant are the same as those with which this Board was confronted in Award No. 13; however, during the progress of the hearing the Organization alleged that Rule 2(c) and the Note thereto had been violated in that the claimant here was handling switch lists and transmitting daily Form X23.

The respondent here professed no knowledge of it either requiring or permitting the claimant here to perform those duties which the Organization alleged in contravention of the effective agreement; therefore, the Board is of the opinion that it does not presently have before it the information required to properly resolve the differences between the parties.

The Board is of the opinion and so finds and holds that there was a reclassification of the position of Agent-Telegrapher to that of Agent-Restricted Telegrapher.

The Board is of the further opinion, and so finds, holds and directs, that this dispute should be remanded in order that a joint check of the Carrier's records be made to determine whether or not the claimant or the incumbent of the affected position at Chidester, Arkansas, has been performing or is presently performing any work in violation of the effective agreement.

The Board further finds, holds and directs that, in the event the joint check of the Carrier's records reveals that such violations occurred, reparations be made by the Carrier to the named claimant or the incumbent of the position in an amount representing the difference between the amount paid since February 17, 1956, and the agreed to rate of the Agent-Telegrapher; until such time as the parties may find that such violation (if any) no longer prevails.

The Board, in making the above findings, is in no wise finding or holding that the Carrier may reclassify a position from Agent-Telegrapher to that of Agent-Restricted Operator on a day-to-day basis in any manner or under any conditions other than that agreed upon by the parties as reflected in 2(b), 2(c) and 2(f-2) of the effective agreement.

FINDINGS: The Special Board of Adjustment No. 117, 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.

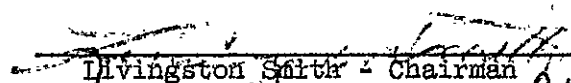
That this Special Board of Adjustment has jurisdiction over the dispute involved herein; and,

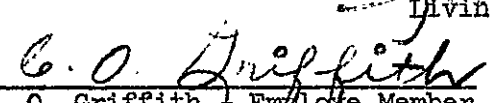
That this matter should be remanded in accordance with the above Opinion.

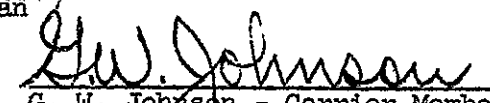
AWARD

Claim remanded with the dispute to be disposed of in accordance with the above Findings and Opinion.

SPECIAL BOARD OF ADJUSTMENT NO. 117


Livingston Smith - Chairman


C. O. Griffith - Employee Member


G. W. Johnson - Carrier Member