

Award No. 5
Case No. 5
Docket No. 5
ORT FILE: 3060

SPECIAL BOARD OF ADJUSTMENT NO. 553
THE ORDER OF RAILROAD TELEGRAPHERS
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

ROY R. RAY, Referee

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific (Pacific Lines), that:

CLAIM NO. 1

1. The Carrier violates the parties' Agreement when it purportedly abolished the agency positions at the stations and on the dates hereinafter set forth while the work of the positions remained, transferred this work to adjacent agencies from where it has been removed by transferring its performance to employees not covered by the Telegraphers' Agreement at Los Angeles, California:

Piru, California, January 10, 1958; Moorpark, California, February 27, 1958; Chino, California, April 7, 1958; Camarillo, California, April 28, 1958; North Hollywood, California, May 23, 1958; Bryn Mawr, California, July 9, 1958; Banning, California, July 30, 1958; San Gabriel, California, August 7, 1958; Bassett, California, August 7, 1958; Saticoy, California, September 2, 1958; Pasadena, California, September 12, 1958; Carpenteria, California, September 18, 1958; Canoga Park, California, October 29, 1958; Ojai, California, December 3, 1958; Northridge, California, April 30, 1959.

2. The Carrier shall, because of the violations set forth above, restore the work to the stations from which the work was improperly removed, and to the employees under the parties' Agreement entitled to its performance.
3. The Carrier shall, in addition to the foregoing, commencing April 7, 1959, compensate each employee.

adversely affected by virtue of Carrier's violative act for any loss of wages, plus actual expenses.

CLAIM NO. 2

1. The Carrier violates the parties' Agreement at Imperial, California, when it purportedly abolished the agency position at this station while the work of the position remained, which it transferred to employees not covered by the Telegraphers' Agreement at El Centro, California.
2. The Carrier shall, because of the violation set forth above, restore the work to the Agreement and to the employees thereunder entitled to perform it.
3. The Carrier shall, in addition to the foregoing, commencing April 7, 1959, compensate each employee adversely affected by reason of Carrier's violative act, for any loss of wages, plus actual expenses.

CLAIM NO. 3

1. The Carrier violates the parties' Agreement when it purportedly abolished the agency positions at the stations and on the dates hereinafter set forth while the work of the positions remained, transferred this work to adjacent agencies from where it has been removed by transferring its performance to employees not covered by the Telegraphers' Agreement at Oakland, Stockton and/or Modesto, California.

Giant, California, March 15, 1954; Pabco, California, April 10, 1958; Biola, California, June 30, 1956; Antioch, California, June 27, 1958; Alameda, California, September 30, 1957; Vacaville, California, June 30, 1958; Melrose, California, December 23, 1957; Esparto, California, July 15, 1958; Yountville, California, January 3, 1958; Waterford, California, August 15, 1958; Centerville, California, February 10, 1958; Benicia, California, August 20, 1958; Pinole, California, February 27, 1958; Galt, California, September 19, 1958; Concord, California, February 28, 1958; Ripon, California, November 14, 1958; Pleasanton, California, March 31, 1958.

Livingston, California, April 18, 1958, closed from November 30 to May 31 each year.

Westley, May 9, 1958, closed from November 16 to May 29, each year.

2. The Carrier shall, because of the violations set forth above, restore the work to the stations from which it was improperly removed and to the employees under the parties' Agreement entitled to perform it.
3. The Carrier shall, in addition to the foregoing, commencing April 21, 1959, compensate each employee adversely affected by reason of Carrier's violative act, for any loss of wages plus actual expenses."

OPINION OF THE BOARD:

The claims in this case involve sixteen stations or agencies on Carrier's Los Angeles Division and nineteen stations or agencies on Carrier's Western Division (including two seasonal agencies at Livingston and Westley) which were closed between March 1954 and April 1959. In each instance Carrier determined that the need for the agency had ceased to exist, gave notice to the Employees as required by Rule 21(d) of the Agreement and received authority from the Public Utility Commission of California to close the agency. The Agencies were reclassified as non-agency stations and the remaining work was moved to other agencies where it was assigned to Agent-Telegraphers, Telegrapher-Clerks and/or to Clerical Employees depending on the character of the work.

The Organization contends that upon abolishment of the agencies the work of the positions remained and that all of the items of work transferred belonged to the persons covered by the Agreement (Agent-Telegraphers at one-man stations and Telegrapher-Clerks at other stations, as an integral part of the work of such positions). It charges, therefore, that the removal of such work to other stations where it is performed by persons outside the Agreement constituted a

violation of the Agreement in each instance. In Claims 1 and 3 the Organization asks that the work be restored to the stations from which it was improperly removed and that the employees entitled to perform it, and all employees adversely affected be compensated for loss of wages plus actual expenses. Claim 2 requests that the work be restored to the Agreement and that employees adversely affected be compensated. In its submission the Organization insists that it seeks only a restoration of the work to the Agreement as distinguished from a restoration of positions. It says the issue here is the same as in Cases 2, 3, 4, 6 and 8 of this Docket, i.e., the transfer of work belonging to Telegraphers to persons outside of the Agreement.

Carrier takes the position that in each instance the need for an agency ceased to exist and its action in closing the agencies and transferring the remaining work was entirely proper and conformed to the Agreement and to prevailing practices on the property. Carrier says that in all except four of these stations the work was removed to other stations because the Agencies were closed rather than in connection with the centralization of clerical work and that the subsequent transfer of the work to Regional Accounting Stations has no bearing on the initial closing. Carrier contends that no work was improperly removed from the Telegraphers and that where the work was assigned to clerical employees it was in accordance with long-standing practice on the property.

With reference to the closing of the Agencies, there can be no doubt of Carrier's right to close an Agency and abolish positions at it when the need has ceased to exist, subject only to proper notice to employees and approval of the Public Utility Commission. Award 388 and other awards of the Third Division. Both of these conditions precedent were met by Carrier here. If any further evidence of Carrier's right to close agencies were needed it could be found in Paragraph 5 of the October 29, 1961 Agreement between the parties which reads: "Any reduction in the number of agencies in excess of five in any calendar year may be placed in effect only through conference and agreement between the parties." If Carrier could not close stations and transfer remaining work there would have no purpose in such a clause.

The question to be resolved, therefore, is whether Carrier's transfer of the remaining work at the closed Agencies to other stations violated the Agreement. It has presented the same arguments which it made in Cases 2, 3, 4, 6 and 8, which involved the removal of clerical work from open stations to centrally located stations. In this connection it should be noted that in only four of the stations involved in these claims was work transferred to central stations while the stations were still operating (Alameda, Melrose, Pabco for which clerical work has been regionalized at Oakland in 1938 and Westley - a seasonal agency for which billing had been centralized at Tracy about 1948). All other stations were closed and the remaining work transferred to adjacent stations prior to regionalizing. Subsequently

some of the work was taken from these adjacent stations and regionalized at Central Agencies. It is clear, therefore, that for the most part the initial removal of the work was due to the fact that the stations were closed because of lack of need rather than for the purpose of centralizing the work. But the Organization insists that the reason for the transfer is immaterial if the work belongs as it claims to the Telegraphers. With that we would agree. In either case the Organization has the burden of showing that work belonging exclusively to Telegraphers has been assigned to persons outside of the Agreement.

In our judgment the Organization has failed to establish any exclusive right to the work in question. Its only claim to the work is based upon the fact that it was being performed by Telegraphers at the particular stations. This is not sufficient. The words of Referee Carter in Award 4392 are persuasive here: "The claim of the Telegraphers' Organization to this work arises out of the fact that it formerly belonged to the agent assigned to this one-man station. As such agent, the work was properly assigned to him. No part of the work here in question could be said to belong to a Telegrapher because of the inherent nature of the work. Where, therefore, a competent authority authorized the discontinuing of all station positions and a closing of the station, the work herein performed out of which this dispute arises, cannot properly be classified as Telegraphers' work exclusively. Unless it could be so classified, we fail to see any basis by which the senior furloughed or extra Telegrapher not working could maintain a claim for a wage loss. With all station positions

properly abolished and no work remaining belonging exclusively to Telegraphers, the only basis for a claim that the work belonged to Telegraphers is gone."

In view of the Organization's reliance upon the same argument as in the "regionalization cases", we call attention to the long practice on the property of transferring clerical work from stations manned by Telegraphers to other stations where it was centralized. We held in those cases that the Organization had failed to establish any exclusive right to the work. The present case is even stronger on its facts. No work was taken from existing stations or positions. For the reason stated above, as well as those expressed in Award No. 2, we hold that Carrier's action in closing the stations and transferring the remaining work to other stations did not contravene the Agreement.

FINDING

That Carrier did not violate the Agreement.


AWARD

The claims are denied.

SPECIAL BOARD OF ADJUSTMENT NO. 553


Roy R. Ray, Chairman


D. A. Bobo, Employee Member


L. W. Sloan, Carrier Member

San Francisco, California

November 9, 1964