

Award No. 13
Docket No. 4

MOP File VGS-380-1463
ORT File 1158-54

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 Sondheimer, Louisiana, to that of Agent-Restricted Operator, effective July 16, 1954, without agreement between the parties.
2. Carrier violated the agreement when effective July 16, 1954, it reduced the rate of pay of the Agent-Telegrapher at Sondheimer, Louisiana, from \$1.865 to \$1.66 per hour without agreement between the parties.
3. Carrier shall restore classification of Agent-Telegrapher to the position at Sondheimer, Louisiana, effective July 16, 1954.
4. Carrier shall pay Mrs. E. K. Braswell, or the incumbent at Sondheimer, Louisiana, the difference between the amount paid since July 16, 1954, and the agreed to rate of Agent-Telegrapher to which she was entitled.

OPINION OF BOARD: This claim concerns the propriety of the Carrier's action in reclassifying the position of Agent-Telegrapher at Sondheimer, Louisiana, to that of Agent-Restricted Operator, such reclassification occurring on July 16, 1954, with a corresponding reduction in the hourly rate from \$1.865 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 Sondheimer, Louisiana, inasmuch as there had not, in fact, been substantial decreases in the duties and responsibilities of the position of Agent-Telegrapher at Sondheimer, Louisiana, to the degree contemplated by Rule 2(f-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, or to

meet substantial changed conditions of a permanent nature for a reasonable period affecting the duties and responsibilities of the occupants of such positions. 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 and so finds and holds that there was a reclassification of the position of Agent-Telegrapher to that of Agent-Restricted Operator. There is evidence of record that reveals that, subsequent to the notice of such reclassification, certain communication service was performed by the claimant that was not contemplated by the parties as being work permitted to be performed by an Agent-Restricted Operator as provided by Rule 2(c) and the Note thereto.

The Board finds and so holds that the claimant, in truth and in fact, did perform communication service not contemplated by Rule 2(c) and the Note thereto on dates and occasions which the Board has reason to believe were repetitious in nature from July 16, 1954, to the present time.

The Board further finds and so holds that the work performed by the claimant here was work which could not be required of an Agent-Restricted Operator when classified as such within the meaning of Rule 2(f-2) and, further, that the work in question was performed on dates and occasions which can be determined only by a joint check by the parties.

The Board is of the further opinion, and so finds, holds and directs, that a joint check of the Carrier's records be made and that the claimant or the incumbent of the position be compensated for the difference between the Agent-Telegrapher's rate of pay and that provided for Agent-Restricted Operator at Sondheim, Louisiana, for each day that work was so performed from July 16, 1954, until such time as the parties may find that such 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 the Carrier violated the effective agreement.

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AWARD

Claim disposed of in accordance with the above Findings and Opinion.

SPECIAL BOARD OF ADJUSTMENT NO. 117

Livingston Smith

Livingston Smith -- Chairman

C. O. Griffith

C. O. Griffith - Employee Member

G. W. Johnson

G. W. Johnson - Carrier Member

St. Louis, Missouri
June 2, 1956

