

C O P Y

ORG. FILE K-36-1
CARRIER FILE D-2628
NRAB FILE CL-9219

AWARD NO. 11
CASE NO. 11

SPECIAL BOARD OF ADJUSTMENT NO. 194

PARTIES The Brotherhood of Railway and Steamship Clerks,
 Freight Handlers, Express and Station Employees
TO

DISPUTE St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the terms of the currently effective Agreement between the parties when on or about November 26 it abolished the position of caller at Thayer, Missouri, and coincident therewith abolished the relief position effective December 1, 1955, which relieved the caller on his Saturday rest day, assigning the work attached thereto to others who hold no seniority or other rights under the Clerks' Agreement.

(2) That former caller J. C. McLelland and relief clerk E. F. Roberts and all others adversely affected by this violation be reimbursed for all losses sustained until corrected.

NOTE: Reparation due employees to be determined by joint check of Carrier's payroll and other records.

FINDINGS: Special Board of Adjustment No. 194, upon the whole record and all the evidence, finds and holds:

The Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as amended.

This Special Board of Adjustment has jurisdiction over this dispute.

In 1955 at Thayer, Missouri, the Carrier discontinued a 6-day Caller position and also a Relief Position that worked the Caller position on Saturday. The claim is that the duties of these positions were improperly assigned to Telegraphers during the hours 2:00 P.M. to 7:00 P.M. and 4:00 A.M. to 5:00 A.M. when no yard clerical forces were on duty. Prior to the discontinuance calling work was performed by the Caller when on duty, otherwise by Yard Clerks.

Thayer is the home terminal for most of the train and enginemen running between Thayer and Memphis where they maintain their homes. Thayer is also the away-from-home terminal for crews operating between Springfield and Thayer and a majority of them laying over at Thayer lodge near the passenger station and yard office. Between Springfield and Memphis there are two 1st class passenger trains operated daily in each direction and three 2nd class freight trains

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operated daily in each direction. The engine crews on the passenger trains change at Thayer. There is daily, except Sunday, local service on the Willow Springs and Memphis Sub-Divisions. There is also a train yard for breaking up and making up trains where engine service is maintained and minor mechanical facilities for repair and servicing.

The Yard Office, Roadmaster's Office, Assistant Superintendent's Office and Telegraph & Ticket Office are adjacent to one another in a combination one-floor combination station-office building. In the hallway connecting the three offices are train and enginemen's boards, both road and yard. There is also an enginemen's board for the Memphis Sub-Division, located across the yard tracks from the station-office building which is marked by a Roundhouse Clerk.

The information with reference to trainmen or enginemen who stand to be called is secured from a call or layoff book which is turned over to the Telegraphers when no yard clerical forces are on duty.

For many years the telegraphic forces have consisted of three telegrapher positions around the clock. Until 1953 the yard clerical forces have consisted of either two or three yard clerk positions and one or more Caller positions.

In 1953 the night Yard Clerk position was abolished and, until December 1, 1955, one or the other of the two remaining Yard Clerks was called or used to perform whatever work of the Caller position was necessary outside of its regular assigned hours. In 1955 when the Caller position was abolished there were two Yard Clerk positions at this station in addition to a Freight Cashier and a Roundhouse Clerk.

First. The work in question here was clerical work and it has customarily and traditionally been performed at this station by a Caller position established under the Clerks' Agreement; and when no Caller was on duty, the work at this station has been customarily and traditionally performed by Yard Clerks and not by Telegraphers.

When the work of the station decreased, as it did here, the Caller position could properly be abolished and the work assigned, as it had been in practice, to other Clerks.

Second. Whether the work of the Caller position could properly be assigned to Telegraphers depends essentially here upon whether the Telegrapher could perform the duties of the Caller position "at, or immediately adjacent to, his telegraphic post" (Award 636) or, as S.B.A. No. 169 Award 7 puts it, "within reasonable proximity of the telegraph office." We take these standards or tests to mean that the telegrapher may leave his desk to perform outside work provided his telegraphic duties are not interfered with in so doing (see Award 7186).

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The specific factual situations involved are not before us, but they may be developed on joint check and dealt with in accordance with the foregoing principles.

The Carrier may sufficiently comply with this Award and the Agreement without restoring the Caller position, if the work be assigned to and performed by employees entitled thereto.

If it appears on joint check that the outside work should have been performed by Clerks and could have been performed by them on an overtime basis or by a call, the claim should be sustained on that basis instead of for a day's pay; otherwise denied.

A W A R D

Claim remanded for joint check and disposition in accordance with the foregoing findings.

/s/ Hubert Wyckoff
Chairman

/s/ T. P. Deaton
Carrier Member

/s/ F. H. Wright
Employee Member

Dated at St. Louis, Missouri, December 17, 1957.

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INTERPRETATION NO. 1
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SPECIAL BOARD OF ADJUSTMENT NO. 194

PARTIES The Brotherhood of Railway and Steamship Clerks,
Freight Handlers, Express and Station Employes

TO

DISPUTE St. Louis-San Francisco Railway Company

The parties have conducted a joint check, the results of which are attached to and made a part of this Interpretation. But the joint check has not enabled the parties to agree upon a disposition of the claim in accordance with the findings in Award No. 11. Accordingly the Organization has returned the docket to us with a request for "further consideration." In effect this request is an application for an interpretation of the Award and we so treat it.

The question is what do the standards or tests laid down in paragraph "Second" of the Award mean as applied to the facts in this case?

What is "reasonable proximity" is a question of fact in each particular case. Although, in practice, Telegraphers never had performed calls at this station, it was not in violation of the Agreement to assign calling by telephone or in the basement locker room of the Office Building or at hotels and rooming or boarding houses within the block directly across the street from the station to Telegraphers in order to fill out their time within their assigned hours (SBA No. 194 Award 7). Otherwise the work was Clerks' work (See SBA No. 194 Award 13).

A further question involves reparations. The portion of the claim on behalf of "all others adversely affected" is invalid for vagueness and uncertainty (Awards 6522, 5562, 5384, 5150, 5116, 4372, 2125 and 1629).

/s/ Hubert Wyckoff
Chairman

I dissent to the answer to the first question:

/s/ T. P. Deaton
Carrier Member

/s/ F. H. Wright
Employee Member

Dated at St. Louis, Missouri June 19, 1959.

INTERPRETATION NO. 1
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STATEMENT OF FACTS AS DEVELOPED IN JOINT CHECK OF CONDITIONS
AT THAYER, MISSOURI, JANUARY 14 AND 15, 1959
IN COMPLIANCE WITH AWARD NO. 11
OF SPECIAL BOARD OF ADJUSTMENT NO. 194

On September 1, 1955 or shortly thereafter the offices of Assistant Superintendent, Roadmaster, Freight Office, Yard Office, Telegraph and Ticket Office, and Warehouse were all moved into a new building just completed. This included all offices at Thayer, Missouri except the Roundhouse Office.

On September 26, 1955 position of Caller and a relief clerk were abolished, leaving the remaining force as follows:

Assistant Superintendent-Roadmaster's Clerk, 8:00 A.M. to 5:00 P.M.,
5 days per week
Freight Cashier, 8:00 A.M. to 5:00 P.M., 5 days per week
Yard Clerk No. 7, 5:00 A.M. to 2:00 P.M., 7 days per week
Yard Clerk No. 8, 7:00 P.M. to 4:00 A.M., 7 days per week
Agent-Telegrapher, 7:00 A.M. to 3:00 P.M., 7 days per week
Telegrapher, 3:00 P.M. to 11:00 P.M., 7 days per week
Telegrapher, 11:00 P.M. to 7:00 A.M., 7 days per week

Assistant Superintendent-Roadmaster's Clerk and Cashier not assigned any calling or other yard clerical work. Yard Clerks were paid for services performed during meal period. Agent and Telegraphers performed all calling work when no Yard Clerk was on duty.

The force and assignments remained substantially the same until April 16, 1958 when Yard Clerk Position No. 7 was abolished. April 17, 1958 Cashier position was changed to a seven-day position and hours changed to 3:00 A.M. to 12:00 Noon and assigned duties previously attached to Yard Clerk Position No. 7, including calling and yard clerical work.

August 29, 1958, hours of the Cashier were changed to 4:30 A.M. to 12:30 P.M., seven days per week, and Yard Clerk Position No. 8 changed to 8:30 P.M. to 4:30 A.M., seven days per week. Agent-Telegrapher calls crews 12:30 P.M. to 3:00 P.M. Second shift Telegrapher calls crews 3:00 P.M. to 8:30 P.M. The office building faces the tracks in a generally easterly direction with a north and south street running back of the building.

Crews for the Willow Springs Sub (north) stay at Thayer Hotel and in a house approximately 600 to 650 feet north from Telegraphers' posts of duty; a house approximately the same distance south and west; and at the Erwin Hotel across the street west approximately 100 feet distant.

Crews for the Memphis Sub (south) live in Thayer and have telephones except one man (Sanders), two men who live outside calling limits, and one man (Newsome) whose residence is at a point about one mile away, there being a question as to whether or not this is within the calling limits, but Mr. Newsome is being called. He has no telephone.

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Mr. Sanders previously lived about three-quarters of a mile away, but has recently moved to a residence about two blocks distant and expects to get a telephone soon. Newsome has been unable to get a telephone.

The two men who live outside calling limits have made arrangements to send a taxi cab for them when they are called, and the two men pay the taxi fare.

Agent-Telegrapher calls crews for Train 134 north consisting of five men and passenger Train 108 when late (consisting of 2 enginemen) finding some men at the Thayer Hotel, some at the house north and beyond the Thayer Hotel, some at the house south and west (approximately 600 to 650 feet distant); some at the Erwin Hotel approximately 100 feet distant or in the basement locker room of the Office Building. This situation changes from day to day according to which men are to be called. In addition when the Cashier is out of the office, Agent-Telegrapher delivers freight and makes collections therefor, turning payments over to the Cashier from 7:00 A.M. to 12:30 P.M. and part of the time delivers freight when the Cashier is on duty. Agent-Telegrapher also does various amounts of freight station work at his desk in the office which was previously performed by the Cashier prior to the time the offices were consolidated shortly after September 1, 1955, and prior to the yard clerical work being assigned to the Cashier.

Second shift Telegrapher calls engine crews (two men) for passenger Train 107 South, calls crews for Train 135 south (six men), and Train 136 north (five men) when it has A.E.C. freight and is called early (usually on Sunday only). Crews for Train 107 and 135 live in Thayer and have telephones except as shown above and only time necessary to go after men is when there is no answer to telephone call or for men who do not have telephones. Crew for Train 136 is the same as for Train 134 handled by the Agent. Second shift Telegrapher also performs some freight station work at his desk and handles the head end work on passenger Train No. 107 approximately 200 feet from his post of duty.

Third shift Telegrapher does not call crews or do yard clerical work.

Telegraphers on duty assist with head end work on passenger Trains 105 approximately 200 feet distant, and Trains 106 and 108 immediately in front of the Office Building.

Agent-Telegrapher and second shift Telegrapher also call crews for extra train, work train, etc., when Cashier and Yard Clerk are not on duty, and also handle train and enginemen's layoffs and reporting for duty when Cashier or Yard Clerk are not on duty, writing this up in a book and Clerks mark the board when they come on duty.

Telegraph service employees state that calling of crews does not interfere with their telegraph duties, and they secure permission from dispatcher if necessary to leave office building to call men.

FOR THE ORGANIZATION:

(Signed) F. H. Wright
General Chairman

FOR THE CARRIER:

(Signed) E. O. Daugherty
Superintendent