Docket No. 2
Case No. 2
Award No. 2
ORT FILE: 3007

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 Company (Pacific Lines), that:

CLAIM NO. 1

1. The Carrier violated the effective agreement between the parties hereto when, commencing June 9, 1958, it removed from said agreement work embraced by the Agent-Telegrapher position at Tempe, Arizona, and assigned the performance of such work to employes not covered by said agreement at Phoenix, Arizona.

2.(a) The Carrier shall, because of the violation set out above, compensate K. M. Robblee, Agent-Telegrapher, Tempe, Arizona, or his successor, for a special call for each date June 17, 18, 19, 20, 24, 25, 26, 27; July 1, 2, 3, 8, 9, 10, 11, 15, 16, 17, 18, 22, 23, 24, 25, 29, 30 and 31, 1958.

(b) The Carrier shall compensate R. B. Stone, regularly assigned relief Agent-Telegrapher, Tempe, Arizona, or his successor, for a special call each date June 16, 23, 30; July 7, 14, 21, and 28, 1958.

(c) The Carrier shall, in addition to the foregoing, so long as the violation as set forth in Item 1 of this Statement of Claim continues, subsequent to July 31, 1958, compensate Claimants Robblee and Stone or his, or their successors, special calls, in accordance with the provisions of the parties' Agreement.

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CLAIM NO. 2

1. The Carrier violated the effective agreement between the parties hereto when, without conference or agreement, it removed from said agreement the work of preparing waybills; signing bills of lading and work incidental thereto, and the work of accounting for all LCL freight destined to or arising at agency stations Fernley and Hazen, Nevada, and transferred the performance of this work into a Regional Accounting Office at Reno, Nevada, where it is performed by employes not covered by the scope of the parties' Agreement.

2. The Carrier shall, because of the violations set out above, restore this work to the agreement and to the employes thereunder at the agency stations from which it was unilaterally removed.

3. The Carrier shall, in addition to the foregoing, compensate D. A. Keely, Agent-Telegrapher Fernley, or his successor, at the overtime rate per hour for the difference between the average hours of daily overtime worked (exclusive of rest day overtime) for his position from June 1, 1955, to June 1, 1958, when the transfer of work took place, and the average hours of daily overtime worked (exclusive of rest day overtime) for his position from June 2, 1958, until date such violation has ceased, with such payment to commence December 1, 1958, and

4. The Carrier shall compensate W. R. Godwin, Agent-Telegrapher, Hazen, Nevada, or his successor, at the applicable rate of his position for any and all loss sustained by him by reason of the Carrier's violative act, from the date of the claim (January 27, 1959) until the violation is corrected."

OPINION OF THE BOARD:

The two claims in this case involve the centralization by Carrier of certain clerical work for three smaller stations at Carrier's major stations where clerical work is regionalized. On June 1, 1958, Carrier transferred from Fernley, Nevada and Hazen, Nevada to Reno, Nevada, the work of preparing freight bills, collecting charges, handling demurrage and various phases of accounting in connection with

freight traffic. On June 9, 1958, Carrier transferred from Tempe, Arizona to Phoenix, Arizona the work of preparing freight bills, collecting charges and various phases of accounting in connection with freight traffic. At Reno and Phoenix the work transferred has been and is performed by clerks (not covered by the Telegraphers' Agreement). At the time of the transfer Fernley had an Agent-Telegrapher and Telegrapher-Clerks around the clock; Hazen had only an Agent-Telegrapher and Tempe had an Agent-Telegrapher and a Clerk. The Clerk's position was abolished on January 30, 1959.

The Organization contends that the transferred work in each instance was an integral part of the Agent's work and belonged to the Agent-Telegrapher at each of the stations, and that the transfer constituted a violation of the Scope Rule of the Agreement. It asks that the Agent-Telegrapher at each of the stations and his relief and their successors be compensated for all losses they have suffered through the violations. In the case of Fernley and Hazen it also asks that the work be restored to Telegraphers at those stations.

Carrier takes the position that nothing in the Agreement gives the Telegraphers an exclusive right to perform this work and that they have not acquired any such exclusive right to the work through custom and practice on this property. It asserts that the work is clerical in nature (admitted by the Organization) and has been performed in the past at these stations as well as at others on this property by Agent-Telegraphers, Telegrapher-Clerks and Clerks. While at the time of the transfer the work was being performed by Agent-Telegraphers or

Telegrapher-Clerks this did not give the Telegraphers a right to the work. Carrier emphasizes the fact that at all these three stations Clerks have done this type of work in the past and that at Tempe a Clerk was doing it at the time of the transfer. This is the Clerk's position which was abolished on January 1, 1959.

The Organization has urged that the issue before the Board is whether the Carrier can unilaterally remove work subject to the Agreement at one station and transfer it to employes of another craft at another station. We agree that Carrier cannot take away work belonging to Telegraphers and assign it to Clerks. But the fallacy in the Organization's statement is that it assumes the truth of the very fact in issue, i.e., whether under the Scope Rule or by custom and practice the transferred work belonged to the Telegraphers.

The Scope Rule is general in character, i.e., it merely lists positions and does not describe the work of the positions. It is well established by numerous awards of the Third Division that under such a rule reference must be had to the custom and practice on the property in order to determine whether particular work belongs to those covered by the Agreement. In this case the burden is upon the Organization to show that it is the custom and practice for Telegraphers to perform this work to the exclusion of others.

What do the facts reveal with reference to how this work has been performed on this property? In 1938 Carrier began centralizing certain types of clerical work performed at its outlying stations in its larger stations which were better equipped to handle

it. The types of work included have been way billing, preparation of freight bills, demurrage, collections and accounting. In the first year certain of the above functions were transferred from 19 stations. This centralization progressed over the years without any complaint from the Organization until 1951 when a claim was filed concerning the telephoning of information on bills of lading by a Telegrapher at Brentwood to a Clerk at Tracy to be used in connection with the centralized preparation of billing at Tracy. At that time Tracy was handling centralized billing for 9 stations, each of which had one or more persons covered by the Telegraphers' Agreement. No mention was made in the claim as to the transmission of such information from the other stations.

In 1953 a similar claim was filed in connection with a clerical employe at Salinas phoning the same type of billing information to clerical employes at Watsonville Junction, this being the central point at which way bills were prepared for Salinas and 8 other stations. Again no contention was made as to phone calls passing between the other stations and Watsonville.

These two claims were included in a Grand Officer's Docket in 1954 and were denied by Carrier on April 9, 1954. The Organization did not appeal them further. By this time the centralization had progressed to the point that various phases of station clerical work for 81 outlying stations (each of which had one or more Telegraphers) were being handled in centrally located stations.

The Organization took no further action until 1958 when the

claims in this docket were filed. In the intervening four years the centralization of clerical work progressed rapidly. The number of stations for which such work was centralized increased from 81 to 333. As of the date of the hearing Carrier had 291 stations, 280 of which were manned by Telegraphers as the top man. In 12 of these 291 stations some clerical work is performed for each of the other stations except four. These 12 do all of the accounting and most of the collection work for 287 stations. Freight billing, waybilling and demurrage are centralized in degrees but not uniformly. The transfer of the work at Tempe, Hazen and Fernley was a part of this progressive "regionalizing" as it is termed which has been in process for 26 years.

As a result of the centralization of the Tempe work at Phoenix the clerical position at Tempe was discontinued some seven months later. The work at Reno for Fernley required about 30 minutes per day and that for Hazen about 10 minutes per day. The business at Hazen reached such a low volume that the station was closed on August 15, 1960.

From the above it is apparent that Carrier had pursued the practice of transferring clerical work from stations manned by Telegraphers for some 13 years prior to 1951 without any complaint from the Organization, and for 20 years before present claims were filed. During all of this time the Organization was fully aware of the transfer of work. This plus the fact that the type of work involved in these claims had been performed at the stations im question as well as at other stations throughout the system in times

past interchangeably by Clerks, Agent-Telegraphers and Telegrapher-Clerks, depending upon availability of personnel, clearly shows that the Organization has failed to prove that the Telegraphers have any exclusive right to the work in preference to the clerks. The most the evidence reveals is that in many stations at various times Telegraphers have performed this type of clerical work as incidental to their primary functions as Telegraphers. This is not enough to vest in them an exclusive right to the work.

In the hearing before the Board, Article VIII of the August 21, 1954 Agreement was referred to by Carrier as supporting its position. That Article dealt with Proposal No. 24 made by Carriers: "To establish a rule or amend existing rules to recognize Carrier's rights to assign clerical duties to telegraph service employes and to assign communication duties to clerical employes". Article VIII as adopted reads, "This proposal is disposed of with the understanding that present rules and practices are undisturbed." In our view Article VIII has no relevance to the issue now before this Board. We are dealing here with the right of Carrier to transfer clerical duties at one station to clerical employes at another station. There is no question in this case concerning the assignment of clerical duties to Telegraphers or communication duties to Clerks. Furthermore, even if Article VIII had any relevance it would not affect the result here. It merely leaves the status quo undistrubed. As of the time of the 1954 Agreement, Carrier's centralization of clerical work had been in process for 16 years and affected the clerical work at 81 stations. Moreover, work of the type in question

here had in the past been performed at the stations involved as well as at other stations over the system by Clerks, Agent-Telegraphers or Telegrapher-Clerks depending on the availability of the personnel.

For the reasons expressed we conclude that Carrier was within its rights in making the work assignments involved and that the claims are without merit.

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, Employe Member

L. W. Sloan, Carrier Member

San Francisco, California
November 9, 1964