

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GEORGIA RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Georgia Railroad, that:

1. The Carrier violated the parties' Agreement when, commencing September 6, 1957, it required the agent-telegrapher at Crawford, Georgia, to suspend work on his regular position from 1:00 P. M. to 4:00 P. M. or later and travel to Stephens, Georgia, formerly an open station, on Monday, Thursday, Friday and Saturday of each week, and there to handle shipments of cotton destined for the Stephens Gin.

2. The Carrier further violated the parties' Agreement when it failed and refused to assign an extra employe to the re-established agency position at Stephens, Georgia in accordance with Section (e) of Article 8 of the parties' Agreement, pending the bulletining and filling of the position in accordance with Section (f) of said Agreement.

3. The Carrier shall, because of the violation set forth in Item 1 above, compensate P. M. Marchman, the regularly assigned occupant of the agent-telegrapher's position at Crawford, Georgia, an additional day's pay at the Stephens agency rate, brought up to date, for each day he was required to suspend work on his regular position at Crawford, Georgia, in order to perform the agency work at Stephens, and,

4. The Carrier shall, because of the violations set forth in Item 2 above, compensate the senior idle employe, extra in preference, a day's pay (eight hours) at the Stephens agency rate, brought up to date, for each and every date that said agency position was filled by the regularly assigned agent-telegrapher from Crawford, Georgia, and/or until the position of agent, Stephens, Georgia, is

bulletined and filled in accordance with Article 8, Sections (d), (e) and (f) of the parties' Agreement. The identification of the claimant in this item and the amount due will be furnished by the Carrier, or by a joint check of the Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective September 1, 1949, as amended.

At Page 23 (Article 19 — Wage Scale) of said Agreement appears, among other listings there, the following:

Location	No. Positions	Hourly Rate	Overtime Rate
Stephens	1 Agent	\$ 1.462	\$ 2.193
Crawford	1 A. T.	1.546	2.319

The confronting dispute is a re-occurrence of one that first arose at Stephens, Georgia, on September 6, 1956. Briefly the facts in that case are: On or about September 10, 1954, this Carrier filed with the Georgia Public Service Commission an application "to discontinue agency service at Stephens and to place its facilities and service at that point on a non-agency prepay basis." The Order issued January 12, 1956, is attached hereto as ORT EXHIBIT NO. 1. While the Order has no determinative value with respect to the cause of violation both in 1956 and now, it (the Order) furnishes information as to the amount of Agency work then existing at Stephens, while other evidence which the record reflects shows that during the periods here involved and that of the original violation work (agency) in substantial quality existed at Stephens.

Pursuant to the Commission's Order, the Carrier did on February 1, 1956, declare abolished the agency at Stephens as an open agency station. Thereafter the Stephens agency was represented by the Agent-Telegrapher at Crawford as a non-agency station.

On or about September 6, 1956, the Agent-Telegrapher at Crawford, Georgia was instructed:

"* * * to close the Crawford agency at 12 noon on Thursdays and Fridays, go to Stephens, reopen that agency and work thereat from 1:00 pm to 4:00 pm, Thursdays, Fridays and Saturdays and on any other days that agent, Crawford, is notified the cotton gin at Stephens is running, come back to Crawford after closing Stephens, and work at Crawford until work for the day is finished, with overtime that is necessary to complete the day's work, etc."

It was the implementation of the above instructions which triggered the original claim. This dispute is now before your Honorable Board as ORT FILE 2242, Docket TE-9588.

Now to return to the case at bar. On or about September 3, 1957, Trainmaster R. N. Studdard personally delivered the following message of instruction to Agent-Telegrapher P. M. Marchman, one of the claimants in this dispute. We quote:

tinue the station: 'This Division has rendered a substantial number of awards dealing with Carrier actions in discontinuing such positions as the one at Alda. Those Awards have generally recognized the right of the Carrier to discontinue a position where the work of that position declines to the point where a substantial part of the employe's time is not occupied with the duties of the position. Awards 439, 4759, 4385, 5127, 5283, 5318.' In the instant case there was such decline of duties at Hassell. (See also Award 5999.)

"As stated in Award 6022, there are two principles so well established there is no occasion for citing awards supporting them that must be given consideration in determining the rights of the parties under the confronting facts as we have construed them. The first is that except in so far as it has restricted itself by the agreement the assignment of work necessary for its operation lies within the carrier's discretion. The second is that in the absence of any rules of the agreement precluding it from doing so it is the prerogative of management, so long as it actually intends to accomplish such a result, to abolish a position if a substantial part of the work thereof has disappeared. (See also Award 6839 and awards cited therein.)

"The carrier may in the interests of efficiency and economy of its operations abolish positions and rearrange the work thereof unless it has limited its right to do so by the provisions of the collective agreement. However, when doing so the work of the positions abolished must be assigned to and performed by the class of employes entitled thereto under the agreement.

"From an analysis of the record, the authorities herein cited and the reasons stated herein, we conclude the claim should be denied."

Carrier respectfully asserts that the employe's claim is without merit and should be denied.

The data contained herein has been made available to Petitioner.

OPINION OF BOARD: These parties filed an identical dispute which was determined by Award Number 10950.

In view of the fact that the parties and the issues were identical in this case as in the prior Award, we reaffirm and readopt the decision of Award Number 10950 as controlling.

We, therefore, hold that the Agreement was not violated.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January 1964.