

**Award No. 16955**  
**Docket No. TE-15832**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**David H. Brown, Referee**

**PARTIES TO DISPUTE:**

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**

**THE PENNSYLVANIA RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the T.C.U. (formerly O.R.T.) on the Pennsylvania Railroad, Lake Region, District No. 2, that effective March 15, 1963, the agency at Mercer, Pennsylvania, was made a non-agency freight station and arbitrarily placed under the jurisdiction of the agent at Sharpesville, Pa., an asterisk position, in violation of paragraph 2 of the April 12, 1938 Agreement as well as paragraph 3 of said Agreement.

**EMPLOYEES' STATEMENT OF FACTS:** The stations involved in this dispute are located in the State of Pennsylvania, each on a different branch line of Carrier. Sharpesville is located 73 rail miles north of Pittsburgh on what was known as Carrier's E&P Branch. Mercer is located 71.4 rail miles north of Pittsburgh on what was known as Carrier's Houston Secondary Track. Mercer is, however, a distance of 17 highway miles east of Sharpesville.

Prior to March 15, 1963, Carrier maintained full-time agency service at each of its stations at Sharpesville and Mercer. Effective with March 15, 1963, however, the status of the Mercer agency was unilaterally changed to that of a non-agency, and the position of Agent at that location was discontinued, and the jurisdiction of the Agent at Sharpesville was unilaterally extended to include the additional station known as Mercer.

The Schedule Agreement between the parties became effective September 1, 1949, and includes a Rate Schedule effective February 1, 1951. Copy of that Agreement is on file with your Board and by this reference is made a part of this submission. The Scope Rule thereof reads, in part:

"The provisions set forth in this Agreement shall constitute separate Agreements between The Pennsylvania Railroad Company and its employes, and the Baltimore and Eastern Railroad Company and its employes, of the classifications set forth below, represented by The Order of Railroad Telegraphers, and shall govern the hours of service, working conditions and rates of pay of the respective positions and employes classified herein.

**The Pennsylvania Railroad Company**  
Group 1 - Station Agents and Assistant  
Agents Classified herein."

Mercer under the jurisdiction of agency station Sharpsville, was in violation of paragraphs 2 and 3 of the April 12, 1938 Agreement.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This dispute arose as a result of Carrier's unilateral action in changing the status of the Agency at Mercer, Pennsylvania, from that of an agency carload and less-than-carload freight station to that of a non-agency carload only freight station under the jurisdiction of the Carrier's Agency at Sharpsville, Pa., and abolishing the position of Agent at Mercer.

Petitioner contends that Carrier's unilateral action was in violation of a Memorandum Agreement dated April 12, 1938, which, insofar as here pertinent, provided as follows:

"3. When Agency duties diminish to an extent which warrants extending the jurisdiction of an Agent or Assistant Agent to include one or more additional stations subsequent to April 12, 1938, such action will be a proper subject for negotiation.

4. When an Agency station is abolished, and in lieu thereof a prepaid non-agency station is established, such action will not require the continuance or establishment of an Agent or Assistant Agent position at such station."

Specifically, Petitioner contends that Carrier was required to negotiate the change under paragraph 3 of the aforesaid Agreement.

Carrier contends that negotiation was not required and that its action was entirely proper, and within the purview of paragraph 4 of said Agreement.

A thorough and detailed analysis of the record in this dispute convinces us that Carrier's action was proper and in accord with the Memorandum Agreement. It follows that the claim the Carrier violated the provisions of the Memorandum Agreement must be denied.

In the handling on the property Petitioner claimed a violation of Regulation 3-C-1 of the basic Agreement, and requested removal of the asterisk designation from the Sharpsville Agency, and also made request for an increase in pay of \$75.00 per month for the Agent at Sharpsville under the provisions of Regulation 8-A-1(b) of the basic Agreement. These two matters were not encompassed within the Statement of Claim as submitted to this Board. In accord with prior awards, these matters may not be considered. See Awards 6954, 8426, 10904, 15523.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 20th day of February 1969.