

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM. —

"That Train Dispatcher D. J. Best was unjustly and unfairly dismissed from the service; that the discipline was entirely out of proportion to the offense with which charged, and that he (D. J. Best) shall be returned to the service with compensation for all time lost."

EMPLOYEES' STATEMENT OF FACTS.—Mr. D. J. Best, with 20 years' train dispatching service with the Great Northern Railway Company, was employed in the Whitefish, Montana, dispatching office, working 4 P. M. to 12 M. He was dismissed from the service, charged with responsibility for train No. 250 becoming stalled in the snow at Soldiers' Home cut at about 9:50 P. M., February 6, 1936, resulting in a delay of about 1 hour 40 minutes to No. 250. On that date a motor train was being operated on the passenger runs on this branch line, and it had been found necessary on account of a severe snow storm in that region to run a steam train ahead of this motor train on all trips up to the time of No. 250. Dispatcher Best permitted this motor train No. 250 to leave Kalispell without running the steam train ahead.

CARRIER'S STATEMENT OF FACTS.—On February 28, 1936, Dispatcher David Jay Best, Kalispell Division, was dismissed from the service for responsibility in connection with Kalispell Branch passenger train, handling No. 28's connection, stalling in the snow at Soldiers' Home cut about 9:40 P. M., February 6, 1936.

Carrier claims that Superintendent had verbally instructed the Chief Dispatcher that the steam train must be run ahead of all motor trains that date;

That the Chief Dispatcher, in turn, had verbally issued similar instructions to Dispatcher Best; and

That Dispatcher Best, in permitting No. 250 to leave Kalispell without the steam train running ahead, violated the instructions of his superior officers.

POSITION OF EMPLOYEES.—The employees contend that Mr. Best had no knowledge whatever of the instructions of the Superintendent to the Chief Dispatcher, and that the instructions from the Chief Dispatcher to Mr. Best did not include No. 250;

That the conversation at which the only instructions are alleged to have been given was held some 5 hours before No. 250 was due to run, and that the instructions only related to trains shortly due to run, and that No. 250 was not included;

That Mr. Best knew, as a matter of ordinary judgment, that so long as the storm continued and the snow drifted into cuts, the operation of the steam train ahead of the motor trains would be necessary;

That Mr. Best was advised by one of his superior officers, in effect, that he could depend upon the judgment of the Conductors on the steam and motor trains (This was confirmed by the officer in question);

That when No. 250 was getting ready to leave Kalispell the Conductors of the steam and motor trains got together and agreed that, as the storm had abated, it would not be necessary to run the steam train ahead; and

That this information was conveyed by them to the Telegraph operator and by him to Dispatcher Best, and it was upon that information that Dispatcher Best permitted No. 250 to depart without the steam train running ahead.

POSITION OF THE CARRIER.—The position of the Carrier is in substance that which is contained in the Carrier's Statement of Facts. Due to ignoring the instructions of his superior officer, Dispatcher Best, in permitting No. 250 to leave Kalispell without the steam train running ahead, the passenger train in question was stalled in the snow at the location known as Soldiers' Home cut. For this deliberate cancellation of specific instructions from superior officers and its subsequent result, Dispatcher Best was dismissed from the service.

OPINION OF THE BOARD.—This claim is based on the stalling of a motor passenger train operating on the Kalispell Division of the Great Northern Railroad between Columbia Falls and Kalispell, Montana, due to snow conditions, and the violation of orders said to have been issued to train dispatchers not to operate motor passenger trains on the day in question without running steam driven snow machinery ahead. The employees contend that Train Dispatcher D. J. Best, who was charged with the dispatching of the stalled train, was unjustly and unfairly dismissed from the service because of the stalling of the train, and that the discipline administered "was entirely out of proportion to the offense with which charged." In the absence of any written instructions issued to train dispatchers, and particularly to Train Dispatcher Best, the Board is compelled to consider the statements made as to oral instructions given and the supporting evidence to the effect that other important activities of the railroad had been put aside on the day in question in order that snow machinery operated by a steam engine could precede all motor driven passenger trains over the road in question, and which had been done with all such trains with the exception of the one which became stalled because of the snow conditions against which the management had sought to guard. So far as the train in question was concerned, the fact is further evidenced that Train Dispatcher Best had questioned the advisability of permitting the train in question to proceed without steam operated snow machinery ahead, but had refrained from exercising his authority not to permit the train to proceed because of the opinion with regard to snow conditions expressed by men in subordinate positions and not by the instructions of officials of constituted authority and who were available on call. Viewing the testimony as a whole and as well as in the light of the warnings concerning safety and carelessness contained in the Operating Book of Rules and conspicuously displayed about the railroad premises, the Board submits its opinion that Train Dispatcher Best was given a fair and impartial hearing on the charges on which this claim is based, and sustains the action of the carrier in its disciplinary action.

At the same time, in view of the various submissions and the character and previous record held, together with the responsible position occupied by Train Dispatcher Best, the Board further submits its opinion that the action of Mr. Best was not one of "deliberate cancellation of specific instructions," as has been charged, but apparently one of hesitancy in over-ruling the statements or opinions of another employe who had been recommended to Mr. Best as a man of experience and judgment.

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 employe involved in this dispute are, respectively, carrier and employe 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 evidence of record discloses no adequate grounds for disturbing the disciplinary action of the carrier.

AWARD

Request denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 7th day of May, 1937.