

Award No. 5535

Docket No. TD-5385

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

GULF COAST LINES

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that:

(a) Action on part of the Gulf Coast Lines was improper and contrary to the intent of agreed upon rules when on February 12, 1950, the Carrier failed to call Train Dispatcher W. H. Walsh to perform work which falls within the scope of the train dispatcher craft or class, as that work is described and prescribed by Article I-(b-2) of the current agreement when the Carrier permitted the control operator at Angleton, Texas, (an employe not subject to the Train Dispatchers' Agreement) to perform work which W. H. Walsh was contractually entitled to perform, and

(b) The Gulf Coast Lines shall now compensate Train Dispatcher W. H. Walsh in the amount of \$19.30 representing a day's pay as train dispatcher which he would have earned had he been called and permitted to perform the train dispatcher work which on February 12, 1950, was performed by the control operator at Angleton, Texas.

EMPLOYES' STATEMENT OF FACTS: An agreement on rules governing the hours of service and working conditions of train dispatchers, between the parties to this dispute, was in effect at the time this dispute arose. A copy thereof is on file with this Board and is, by this reference, made a part of this submission as though fully incorporated herein. The scope of said Agreement pertinent to the instant dispute reads as follows:

"ARTICLE I

"(a) Scope:

This Agreement shall govern the hours of service and working conditions of train dispatchers. The term 'train dispatcher', as hereinafter used, shall include Night Chief, Assistant Chief, trick, relief and extra train dispatchers. It is agreed that one Chief Dispatcher (now titled Division Trainmaster on this property) in each dispatching office shall be excepted from the scope and provisions of this Agreement.

"(b-1) Definition of Night Chief and Assistant Chief Dispatcher Positions:

movement of trains outside the C.T.C. territory than did the Control Operator during the period in question because of the failure of means of communication. In other words, Train Dispatcher Walsh could have accomplished no more than could or did the regular train dispatcher on duty in the dispatcher's office at Kingsville.

When consideration is given to all the facts and circumstances here involved, together with the governing rules covering the movements of trains within the limits of C.T.C. territory, it is quite obvious that there was no violation of any agreement with the Train Dispatchers, or of any operating rules, in the movement of trains by the Control Operator at Angleton on the date in question. Therefore, the contention of the Employees' is entirely without merit or basis and should be dismissed, and the accompanying claim for a day's pay in favor of Dispatcher Walsh accordingly denied.

(Exhibits not reproduced).

OPINION OF BOARD: Claimant was a regularly assigned train dispatcher at Kingsville, Texas. On February 12, 1950, Carrier allegedly permitted the control operator at Angleton, Texas, to dispatch trains over certain main line territory, during which time there was a failure of communication between dispatcher's office at Kingsville and Angleton. The control operator was not subject to the Dispatchers' Agreement. The work was performed on claimant's rest day. The Organization contends that the work should have been assigned to claimant on his rest day instead of the control operator who had no seniority as a dispatcher.

The record shows that communication lines were down and, it being a Sunday, there was delay in correcting the wire trouble. The Organization contends the claimant should have been called at Kingsville and directed to proceed towards Angleton by train or automobile with instructions to stop at the first office beyond the wire trouble and communicate with the control operator for the purpose of directing train movements.

The Organization relies upon Article I (b-2), current Agreement, defining a trick train dispatcher position and the duties of such positions. It provides as follows:

"This class includes positions in which the duties of incumbents are to be primarily responsible for the movement of trains by train orders, or otherwise; to supervise forces employed in the handling of train orders; to keep necessary records incident thereto; and perform related work. This definition does not change the work jurisdiction of train dispatchers."

The record shows that train movements from Kingsville north to Alcoa, a distance of 224.6 miles, are handled by dispatchers at Kingsville. The north 103.1 miles of this section of track is equipped with a C.T.C. (Centralized Traffic Control) installation which is operated by control operators who are covered by the Telegraphers' Agreement. The control operators of the C.T.C. are stationed at Angleton, a point 201.2 miles north of Kingsville. The movements of all trains within the limits of the C.T.C. are handled by the control operators at Angleton under the supervision of the dispatcher's office at Kingsville. Train orders are not required within C.T.C. limits except those restricting the speed of trains. During the period heretofore mentioned when communication lines were out of service, the control operator at Angleton cleared four trains and gave a switcher working authority between two stations on the railroad, all within the limits of the C.T.C. territory. It is the latter work which the Organization contends belongs exclusively to the dispatchers.

The duties of dispatchers and control operators are correctly stated in Award 5368, to which we adhere. There was a failure of communication service in the case here presented for a period of seven or more hours. During this period, the control operator made the train movements hereinbefore described. It is shown, also, that the control operator could not contact the

dispatcher during this period and he was not therefore under the direct supervision of a dispatcher. It is not shown by the record that supervision was required by the control operator. For ought this record shows the control operator was carrying out previous instructions of the dispatcher in performing the work in question. The situation existing was emergent in character and brought about abnormal conditions. The controlling factors are identical with those contained in Award 5368. The conclusions therein reached require a finding here that no basis for an affirmative award exists.

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 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: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1951.