

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

WABASH RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) Carrier violated and continues to violate the rules of the Schedule for Clerks effective November 1, 1948, in assigning and requiring the assigned occupant and relief employe of a position designated as Caller at Montpelier, Ohio, a seven (7) day position, hours of assignment 4:00 P.M. to 12:00 O'Clock Midnight, to perform duties of similar class and kind to those assigned to an performed by the occupants of two clerical assignments of Crew Dispatcher and compensating the occupant of the position designated as Caller, at Caller's basic daily rate of pay.

(b) The position designated as Caller, located in office of Roundhouse Foreman at Montpelier, Ohio, be re-classified as Crew Dispatcher; the position to be bulletined as Crew Dispatcher with an established daily rate to conform to the daily rate established for the two positions of similar class and kind in the office of Roundhouse Foreman, with daily hours of assignment 8:00 A.M. to 4:00 P.M., and 12:00 O'clock Midnight to 8:00 A.M., seven (7) day positions.

(c) The assigned occupant of the position designated as Caller, and the employe assigned to relief service two (2) days per week, to be compensated for the daily difference in the established basic rate of Caller and the established basic rate of Crew Dispatcher, which is \$1.91 per day, from December 1, 1949, until date the position designated as Caller is bulletined as Crew Dispatcher with proper daily rate and assigned in keeping with the rules of the Schedule for Clerks.

EMPLOYEES' STATEMENT OF FACTS: In the office of Roundhouse Foreman at Montpelier, Ohio, two, seven (7) day clerical positions designated as Crew Dispatcher are established with daily rate of \$13.54, hours of assignment, 8:00 A.M. to 4:00 P.M., and 12:00 o'clock midnight to 8:00 A.M. In the same office there is a seven (7) day position designated as Crew Caller, with daily rate of \$11.63, daily hours of assignment 4:00 P.M. to 12:00 o'clock midnight. The assigned occupant of this position and the relief employe, are assigned and perform each day, duties similar to those assigned to and performed by the occupants of the two positions designated as Crew Dispatchers.

The incumbent of position designated as Crew Caller, also the relief employe working the 4:00 P.M. to 12:00 o'clock midnight shift, relieve one of the

The average number of engines dispatched at Montpelier during the month of October 1932, i.e., 21.3, is the same as the number dispatched during the month of September 1952, the last month for which that information is now available.

The Committee's request that the position of Caller at Montpelier be reclassified as Crew Dispatcher and that the occupant of that position be allowed the difference between the Caller's rate and the Crew Dispatcher's rate, retroactive to December 1, 1949, is nothing more than a request to change the established daily rate of the position of Caller at Montpelier retroactive to December 1, 1949, that has not been initiated or progressed in the manner prescribed by the Railway Labor Act. It should be recognized and treated as such by this Board and, accordingly, be denied.

The Carrier affirmatively states that the substance of all matters referred to herein has been the subject of correspondence or discussion in conference between the representatives of the parties and made a part of the particular question in dispute, with the exception of the data as to the number of engines dispatched at Montpelier during the month of September 1952.

OPINION OF BOARD: The Record shows that in 1929 the Carrier employed three Crew Dispatchers and two Callers in the office of Roundhouse Foreman at Montpelier, Ohio. In 1930 the two Caller positions were abolished, but in 1932 one of the Caller positions (4:00 P.M. to 12:00 Midnight) was restored concurrent with the abolishment of one of the Crew Dispatcher positions. The force of Crew Dispatchers and Callers has remained constant since 1932; thus, when this dispute arose the Carrier maintained at this location an 8:00 A.M. to 4:00 P.M. Crew Dispatcher position (rate \$13.54), a 4:00 P.M. to 12:00 Midnight Caller position (rate \$11.63), and a 12:00 Midnight to 8:00 A.M. Crew Dispatcher position (rate \$13.54). The Employees now contend that the assigned occupant of the Caller position and the relief employee "are assigned and perform each day, duties similar to those assigned to and performed by the occupants of the two positions designated as Crew Dispatchers". They accordingly ask that the Caller position carry the Crew Dispatcher rate.

The Employees state of the Caller position that "the duties assigned and responsibilities assumed are those of a Crew Dispatcher", and they further state:

"This is quite evident from the fact that the occupant of the second shift position, listed as crew Caller relieves the Crew Dispatcher on the so-called first shift, 8:00 A.M. to 4:00 P.M., and at 12:00 o'clock midnight, the so-called third shift Crew Dispatcher relieves the second shift". (See Employees' letter of January 5, 1950.)

But while it is true that the Caller relieves and is in turn relieved by a Crew Dispatcher, the Record negatives the suggestion, as will hereafter be seen, that "the duties assigned and responsibilities assumed are those of a Crew Dispatcher."

The Carrier contends that the "average amount of time consumed each day of the occupant of the Caller's position in question in the performance of Clerical work, does not exceed twenty-five minutes". The Employees, on the other hand, contend that at least five hours of clerical work is performed each day on the Caller position.

The Record shows without question that numerous important duties are performed by occupants of the Crew Dispatcher positions which are not performed by the occupants of the Caller position. These duties include the following, as stated by the Carrier and not denied by the Employees:

"Typing and checking I.C.C. Inspection Reports, Preparing 498 Report, Check roundhouse employees in and out, Verify Company coal

cars unloaded, Handle speed recorder tapes, Prepare Coal Report Form 614, Handle time slips for engine house employees."

Also significant and persuasive in the Carrier's favor is a statement in the Record by V. J. Michael, assigned occupant of the Caller position, listing the primary duties performed by him; **all of the duties listed by Michael are directly related to and are an essential element of the duty of calling crews.**

The Record also contains a statement by Paul R. Wasson, assigned occupant of the first trick Crew Dispatcher position, to the effect that the Caller position involves more than five hours of clerical work each day. This statement, upon which the Employees seem primarily to rely, loses much of its persuasiveness when one considers that the Caller works at a time when Dispatcher Wasson is normally not present. Moreover, offset against Wasson's statement are statements by General Foreman P. E. Griffin and Roundhouse Foreman F. M. Rouch to the effect that the Caller position involves only about twenty-five minutes of clerical work per day.

Finally, consideration of past practice becomes important in view of the fact that the Record contains direct conflict as to how much clerical work is performed on the Caller position. In this connection, it is significant that the average number of engines dispatched per day at this point was the same in September 1952 that it was in October 1932, and that the number was only slightly different (less) in January 1950. The Crew Dispatcher and Caller force has remained constant since 1932. While not conclusive in the Carrier's favor, the absence of protest during the seventeen-year period from 1932 until the instant claim was filed lends support to the Carrier's contention that a great deal less than three hours of clerical work per day has been performed by the occupant of the Caller position.

In view of all the above considerations it must be concluded that the claim herein is without merit.

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, 1943:

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

That the Carrier did not violate the agreement.

AWARD

Claims (a), (b) and (c) all denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 10th day of September, 1953.