



Award No. 15765
Docket No. TD-16283

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Harr, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

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

(a) The Southern Pacific Company (Pacific Lines), hereinafter referred to as "the Carrier," violated the currently effective Agreement between the parties, Article I, Section (c) and the agreed-upon interpretation thereof contained in Memorandum of Understanding dated September 13, 1937 in particular, when, on December 2, 3, 4, 7, 10, 11, 1964, it permitted and/or required an employe or employes not within the scope of said Agreement to assume primary responsibility for the movement of trains between MP 75.35 and MP 88.5 on Carrier's Western Division.

(b) For the above violation, Carrier shall now be required to compensate individual claimants one day's pay at trick train dispatchers' rate of pay covering each of the dates specified in paragraph (a) above, days upon which claimants were deprived of train dispatching work for which they were available and to which they were entitled under the provisions of the Agreement, but which work was performed by an employe or employes of the Carrier not within the scope of said Agreement:

Train Dispatcher H. Cotton, December 2 and 3, 1964

Train Dispatcher H. M. McRae, December 4, 1964

Train Dispatcher A. A. Blumhart, December 7, 1964

Train Dispatcher A. E. Skillicorn, December 10, 1964

Train Dispatcher D. H. McClintock, December 11, 1964

EMPLOYES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, a copy of which is on file with this Honorable Board, and the same is incorporated herein and is made a part of this submission as though fully set forth herein:

By letter dated September 3, 1965 (Carrier's Exhibit D), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, contending violation by Carrier of Article 1, Section (a), of the current agreement, "and the agreed-upon interpretation of that article," and that the alleged action by Trainmaster Corbett constituted a transfer of work to a third party who became primarily responsible for the movement of trains and in so doing performed work that has been customarily, traditionally and historically done by train dispatchers.

By letter dated January 13, 1966 (Carrier's Exhibit E), Carrier's Assistant Manager of Personnel denied the claim.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim before us is that the Carrier violated the effective Agreement when on December 2, 3, 4, 7, 10, and 11, 1964, it permitted employes outside the scope of the Agreement to assume responsibility for the movement of trains between MP 75.35 and MP 88.5 on Carrier's Western Division.

This Board has held many times that the burden of establishing all essential elements of the claim rests upon the Petitioner. We feel that in the case at bar the Petitioner has failed to sustain the burden of proof. If the Employes' position is as strong as they argue, then it should have been simple for them to have backed their position with statements.

Since the Petitioner has offered no probative evidence to support their position we must dismiss the claim. See Awards 13861, 13868, 13880, 13933, 13934, 13954, 13962, 13972, and 13977.

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 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 Claim should be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of July 1967.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.