Award No. 18688
Docket No. TD-18880

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(a) The St. Louis-San Francisco Railway Company (hereinafter "the Carrier") violated the effective Agreement between the parties, Article I thereof in particular, when on June 9, 1969 it required and/or permitted other than those covered thereby, to perform work covered by said Agreement.

(b) Carrier shall now compensate Train Dispatcher W. F. Haynes one day's compensation at time and one-half the daily rate applicable to Assistant Chief Dispatcher for said violation on the rest day of Claimant.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, copy of which is on file with this Board, and the same is incorporated into this Ex Parte Submission as though fully set out herein.

Article I – Scope is identical in the Agreement effective September 1, 1949, revised as of January 1, 1953 and again revised effective October 1, 1965, insofar as the rules material to this dispute are concerned.

For the Board's ready reference, Article I, Scope, of the Agreement is here quoted in full text:

"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 in each dispatching office shall be excepted from the scope and provisions of this agreement.

CLAIM 36

This claim was presented upon the following reported Statement of Facts:

"Work Extra 510, on June 27, 1969, was instructed to unload 5 panel rail at F488. Instructions that were issued by an employe not within the Scope of the said Agreement. Work Extra 510 complied with the above instructions."

This claim was denied not only for the reasons stated in the declination of Claim 11, but also for the lack of confirmation in the Carrier's records of the alleged occurrence, and for the additional reasons that no work Extra 510 operated on the claim date and the designated claimant is not the real party in interest even if the claim were otherwise meritorious. Copy of the Carrier's declination letter November 19, 1969 is attached hereto as Carrier's Exhibit No. 36.

CLAIM 37

This claim was presented on the following reported Statement of Facts:

"At 10:35 A.M., June 17, 1969, Mr. C. E. Hurt, Trainmaster, Quanah, Texas, instructed No. 31 to set out two (2) cars at Olustee and do some spotting of the elevator.

No. 31 did as was instructed."

The various reasons given for declination of this claim are set forth in the Carrier's declination letter November 19, 1969, copy attached as Carrier's Exhibit No. 37.

CLAIM 38

This claim was presented on the following reported Statement of Facts:

"At 9:10 A.M., June 17, 1969, Mr. C. E. Hurt, Trainmaster, Quanah, Texas, instructed train No. 31 at Snyder, Oklahoma to bring what he has handy to Quanah. If possible bring 10 mty covered hoppers and 2 mty box.

No. 31 did as instructed."

The various reasons given for the declination of this claim are set forth in the Carrier's letter November 19, 1969, copy attached as Carrier's Exhibit No. 38. The trainmaster who is alleged to have committed the violations in Claims 37 and 38 is one of the division officers who, as such, has responsible control over the operation of a division, or a terminal, or of a major activity within an operating division, and when acting in the discharge of his duties and responsibilities, it is not mandatory that a division trainmaster exercise such responsible control only through employes of the train dispatchers' class, nor do the Rules of the Train Dispatchers' Agreement place such a hindrance or limitation upon him.

(Exhibits not reproduced.)

OPINION OF BOARD: On the claim date the Trainmaster at Quanah, Texas, issued the following instructions to the Operators at Quanah, Texas:

"Call No. 36 for 8:00 A.M. and call No. 32 for 9:00 A.M."

The issue is similar to those adjudicated in Awards No. 18458, 18565, 18592 and Award No. 3 of Public Law Board No. 588 on this property wherein it was held that the right to issue call instructions does not belong exclusively to Dispatchers. The findings in those awards are applicable here and are affirmed.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of September, 1971.

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