

Award No. 18692
Docket No. TD-18884

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 10, 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 I. E. Talley 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.

EMPLOYEES' 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.

Note (1): Positions of excepted chief dispatcher will be filled by employees holding seniority under this agreement.

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 upon 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 employees 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: The Trainmaster at Joplin, Missouri to the crew of train No. 331:

"JO a 837 SO 907 06/10/9 1011
Joplin, Mo. 9:30 A. M. June 10, 69

JDW SO
MHF CJ
C&E No. 331 MO

On hand Reeds SLSF 95864 Co. Rail H331. Car has been billed and ready to move since June 6 and is badly needed at Joplin Mo. Waybill at Carthage. Joint JDW MHF C&E No. 331

G. M. K."

A similar claim on this property was denied in Award No. 4 of Public Law Board No. 588. There an Agent issued a message to a train crew, with a copy to the Chief Dispatcher, "to pick up designated cars." That Board held that such a message is not work related exclusively to Train Dispatchers. It is not a train order involving the movement of a train nor is it incidental to the duties of a Chief, Night Chief and Assistant Chief Dispatcher. Whether

the message directs the crew to pick up specific cars or a number of unidentified cars it is still an order to pick up which is work not exclusively reserved to Train Dispatchers under their Scope Rule. The same principle applies to setting out the specific car at a designated point.

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 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 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.