

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20213
Docket Number CL-20328

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight **Handlers, Express** and
(Station **Employees**
((formerly Transportation-Communication
(Division, **BRAC**)
(
(Maine **Central Railroad Company**
(Portland Terminal Company

STATEMENT OF CLAIM:

Claim of the System Committee of the **Transportation-Communication** Division, BRAC, on the Maine Central - Portland Terminal Company, GL-7339, that:

1. Carrier violated Article 7 of the January 1, 1951 Agreement when they neglected to **call** G. F. Melvin on duty to copy orders.

2. Carrier shall be required to compensate Claimant a two hour call at punitive rate Agent Oakland **for** this violation.

OPINION OF BOARD:

Claimant asserts that Carrier violated Article 21 by allowing employees not within the scope of the agreement to handle **an** order to return an Engine to **Waterville**.

In appropriate part, Article 21 states:

"(a) No employee other than covered by this Agreement and **Train Dispatchers** **will** be permitted to handle train orders **except in cases of emergency.**
(underscoring supplied)

(c) **Emergencies....shall include only...., engine failures,....that could not have been anticipated**
...."

The record shows that an employee not within the scope of the **agreement** issued the order in question. Claimant states that there was not an engine failure, but merely "mechanical trouble."

This Board has fully considered the record, and the Awards cited by the parties. We are of the view that the issue of "emergency" was raised on the property. Further, there is nothing of record to suggest to us that the Engine in question **merely** suffered "mechanical trouble." Rather, the entire record **convinces** us that on the day **in**

question there was "engine failure" and that the Carrier's action was permissible under the exceptions to Article **21**. Accordingly, we **will** deny the claim.

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 agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulys
Executive Secretary

Dated at Chicago, Illinois, this **11th day of April 1974**.