

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22718
Docket Number CL-22552

James F. Searce, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(**Express** and Station **Employees**

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the **System Committee** of the Brotherhood
(R-8576) that:

(1) Carrier violated the terms of the Agreement between the parties when, **on various** dates during December, 1975, it required and permitted employees not covered thereby, to **perform** the assigned duties of third-trick Block-Operator-handling switches position at WJ Tower, Wilsmere, Delaware.

(2) Carrier shall, because of the violation set out above, compensate the named idle and available employees, eight (8) hours' pay at the third-trick **"BS"** position WJ Tower rate of pay for each date, as hereafter **shown:**

T. A. Saxton - December 1, 3 and 15, 1975
P. C. Bonifacino - December 3, 5, 9, **10**, 16 and 17, 1975
P. R. Schmeusser - December 8 and 22, 1975
G. B. Goldsberry - December 13 and 20, 1975
J. B. Towner - December 2, 1975
J. J. Turner - December 7, **14** and 21, 1975
M. D. Harryman - December 12 and 19, 1975.

OPINION OF BOARD: Basis for this claim arose when a vacancy for a third trick Operator position was left vacant at **WJ** Tower in the (Wilsmere) Wilmington, Delaware yard. The claim initiated thereafter asserts that **Yardmasters** performed duties reserved to that position and, with particularity, **communications directly** with Train **Dispatcher relative** to the movement and blocking of **trains**. The claim also asserted or **implied** the copying of train orders and blocking of trains.

The record indicates no proof that any trains were actually blocked or orders copied. As to the communication aspects raised in the claim, the Organization seemingly depends upon a former Telegrapher's Rule strictly limiting conveyance by telephone or other devices of train orders and messages to Dispatcher by Operators. Such provision was replaced by a new

Rule issued concurrent with the merger of the Telegrapher craft into the Organization; the new Rule has no such restrictive language.

While the Organization raises several other matters on its **ex** parte submission to **the** Board, the record indicates such subjects were not part of the claim, not discussed on the **property** and thus will not be addressed here.

We find no basis to affirm the Organization's claim herein.

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.

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Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, **Illinois**, this 11th day of January 1980.