

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD

THIRD DIVISION

Award Number 24058
Docket Number CL-24383

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
(The **Baltimore** and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-9526) that:

(1) Carrier **violated** the effective Clerk-Telegrapher **Agreement** when, commencing **December 6, 1980**, and continuing, it caused and **permitted** Trainmen, employees **not** covered by said Agreement, to handle out-of-order remotely controlled switches, communication equipment and give hand signals, conferring **train movement** authority upon approaching trains for movement over the **main** track at Old River Junction, Hamilton, Ohio, the location of an abolished Telegraph Office **within** the station limits of New River Tower Interlocking and Train Order Station, Hamilton, Ohio.

(2) **Carrier**, as a result of such **impropriety**, shall compensate each employe **named**, as indicated, eight (8) hours' pay at the pro rata rate of \$76.67, (plus subsequent general rate increases) for each date listed, as follows:

- | | |
|-------------------|---|
| (a) L. E. Prewitt | First Trick 7:30 AM to 3:30 PM
December 6, 1980 and each subsequent
Saturday of each week until violation
ceases. |
| (b) V. R. Costa | First Trick 7:30 AM to 3:30 PM December 7,
and 8, 1980 and each subsequent Sunday
and Monday of each week until the viola-
tion ceases. |
| (c) J. A. Hunt | - First Trick 7:30 AM to 3:30 PM December 9,
and 10, 1980 and each subsequent Tuesday
and Wednesday of each week until the viola-
tion ceases. |
| (d) M. W. Withrow | - First trick 7:30 AM to 3:30 PM December 11,
1980 and each subsequent Thursday of each
week until the violation ceases. |
| (e) C. W. Smith | First Trick 7:30 AM to 3:30 PM December 12,
1980 and each subsequent Friday of each
week until the violation ceases. |
| (f) R. Brock | Second Trick 3:30 PM to 11:30 PM December 6
1980 and each subsequent Saturday of each
week until the violation ceases . |

- (g) H. H. Venerable - Second Trick 3:30 PM to 11:30 PM December 7, 1980 and each subsequent Sunday of each week until the violation ceases.
- (h) J. A. McDaniel - Second Trick December 8 and 9, 1980, 3:30 PM and each subsequent Monday and Tuesday of each week until the violation ceases.
- (i) John Boyd - Second Trick 3:30 PM to 11:30 PM December 10, 1980 and each subsequent Wednesday of each week until the violation ceases.
- (j) C. Lay - Second Trick 3:30 PM to 11:30 PM December 11 and 12, 1980 and each subsequent Thursday and Friday of each week until the violation ceases.
- (k) R. W. Gray - Third Trick 11:30 PM to 7:30 AM December 6 and 7, 1980 and each subsequent Saturday and Sunday of each week until the violation ceases.
- (l) C. Wichern - Third Trick 11:30 PM to 7:30 AM December 8, 1980 and each subsequent Monday of each week until the violation ceases.
- (m) F. Daulton - Third Pick 11:30 PM to 7:30 AM December 9, 1980 and each subsequent Tuesday of each week until the violation ceases.
- (n) D. E. Haven - Third Trick 11:30 PM to 7:30 AM December 10 and 11, 1980 and each subsequent Wednesday and Thursday of each week until the violation ceases.
- (o) J. E. Johnson - Third Trick 11:30 PM to 7:30 AM December 12, 1980 and each subsequent Friday of each week until the violation ceases.

OPINION OF BOARD: Prior to December 4, 1980, crossover switches at Old River Junction, Hamilton, Ohio, were controlled by Operators at the tower at New River Junction. On December 4, 1980, there was a freight train derailment which destroyed the tower. Starting on December 6, 1980, a mobile trailer was placed temporarily at New River Junction for the Operators and the switches at Old River Junction were set up to be handled manually. Carrier utilized the services of a train service employee to handle the hand-thrown switches and the claims which are the subject of this dispute resulted.

We have reviewed the entire record of this dispute and have carefully considered the arguments of the respective parties. We are unable, however, to find anywhere in the Rules or arguments any support for Petitioner's contentions. There simply is no violation of the Clerk's Agreement when trainmen handle hand-thrown switches under circumstances such as are present in this case.

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

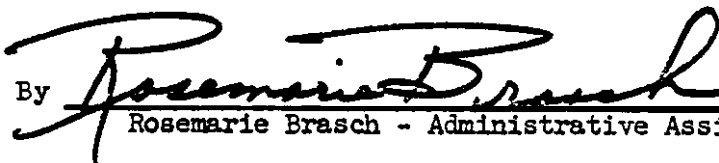
~~That~~ the Agreement was not violated.

A W A R D

claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By ~~Order~~ of ~~Third~~ Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of December 1982.