

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25214
Docket Number TD-24418

Martin F. *Scheinman*, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Chicago & North Western Transportation Company

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

(a) The Chicago and North Western Transportation Company (hereinafter referred to as "the **Carrier**") violated **the** currently effective Agreement between the parties, Rule 1 - SCOPE, Rule 2(b) and Rule 2(f) thereof in particular, when it permitted and/or required a person not covered by the schedule Agreement to perform train dispatcher work falling within such Agreement on June 18, 1980.

(b) Because of such violation the Carrier shall now compensate Claimant W. W. Galloway as senior qualified and rested train dispatcher at such time, one day's pay at the pro rata rate applicable to trick train dispatchers for June 18, 1980.

OPINION OF BOARD: The relevant facts of this claim are not in dispute. On **the** claim date, the Yardmaster at Clinton, Iowa instructed the crew of Extra Train No. 6868W to depart from Clinton and to use the eastbound main track to Low Moor, Iowa account of a wrecker working at the west end of the Clinton Yard. In so doing, the train operated approximately 1.5 miles from the outer limits of the Clinton Yard to Low Moor.

The Organization contends that the Yardmaster's order to the crew violates Rule 2(b) and 2(f) of the Agreement. That Rule reads:

"(b) DEFINITION OF TRICK TRAIN DISPATCHERS POSITIONS

This class includes positions in which the duties of incumbents are to be primarily responsible for the movement of trains by train orders, or otherwise; to supervise forces employed in handling train orders, to keep necessary records incident thereto; and to perform related **work.**"

"(f) WORK PRESERVATION

The duties of the classes defined in Sections (a) and (b) of this Rule 2 may not be performed by persons who **are** not subject to the rules of this agreement.'

The Organization **asserts** that movements outside train yards are to be controlled by Train Dispatchers and not Yardmasters. Here, Extra 6868W operated for 1.5 miles at the direction of a Yardmaster. Thus, the Organization reasons that Carrier violated the Agreement under these circumstances. Accordingly, it asks that the claim be sustained in its entirety.

Carrier, on the other hand, denies that it violated the Agreement. It points out that at about 8:00 a.m. the **Yardmaster** at Clinton called the trick Train Dispatcher in charge of lines east of Boone, Iowa and indicated that No. **6868W** would have to use the eastbound track to Low Moor. The Train Dispatcher refused to so order the crew. In Carrier's view, the Train Dispatcher had no legitimate reason to deny the Yardmaster's request. Thus, Carrier **asserts** that it was proper and necessary for the **Yardmaster** himself to order the **crew** to use the eastbound main track to Low Moor. Accordingly, it asks that the claim be rejected.

A review of the record evidence convinces us that the claim must be sustained. The Yardmaster's order, in part, required the crew to travel beyond the yard limits. Such orders fall under the authority of Train Dispatchers and not Yardmasters. Their area of control was within the limits of the Yard.

Second, the Train Dispatcher's failure to order the crew to use the eastbound main does not alter this conclusion. The train could have proceeded to the outer limits of the Yard where permission to use the eastbound main could again have been sought. Instead, the Yardmaster simply ordered the crew to proceed both to the Yard's outer limits, which was within his jurisdiction, and to travel to Low Moor, which was outside his jurisdiction. Under these circumstances, it is clear that the **Yardmaster's** order violated Rule **2(b)** and **2(f)** of the Agreement.

Finally, as to the appropriate remedy, we note that Claimant's services would not have been required for a full trick if Carrier had complied with the Agreement. Accordingly, we will award Claimant a call, or two hours' compensation at the pro rata rate applicable to Trick Train Dispatchers on June 18, 1980. (See Rule **4(c)**)

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 violated.

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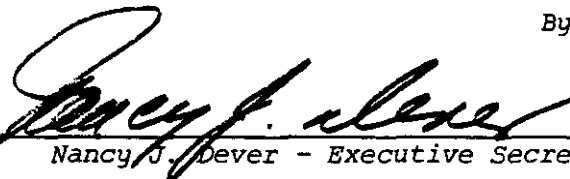
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Claim sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.