

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29297
Docket No. TD-29809
92-3-91-3-171

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

#1 - 8/31/89 GRIEVANCE, SELKIRK - SYSTEM DOCKET TD-24

This is a formal grievance pursuant to Rule 17(a) of the Agreement between the American Train Dispatchers Association and ConRail.

The Carrier violated Rule 23(a) when it located the Signal Department trouble desk.....within the Train Dispatchers office.

Rule 23(a) reads 'Train Dispatchers' offices shall be maintained as private as possible and located so as to minimize interruptions or interference from outside noise.'

The Carrier has failed to comply with rule 23(a) and has made no effort to prevent outside noise from interfering with the Train Dispatchers. The Carrier has created additional noise and interference by locating non-train dispatchers within the dispatching office.

#2 - 8/31/89 GRIEVANCE, DEARBORN - SYSTEM DOCKET TD-26

This is a formal grievance pursuant to Rule 17(a) of the Agreement between the American Train Dispatchers Association and ConRail.

The Carrier violated Rule 23(a) when it located the Signal Department trouble desk.....within the Train Dispatchers office.

Rule 23(a) reads 'Train Dispatchers' offices shall be maintained as private as possible and located so as to minimize interruptions or interference from outside noise.'

The Carrier has failed to comply with rule 23(a), and has made no effort to prevent outside noise from interfering with the Train Dispatchers. The Carrier has created additional noise and interference by locating non-train dispatchers within the dispatching office.

#3 - 1/30/90 GRIEVANCE, INDIANAPOLIS - SYSTEM DOCKET TD-46

This is a formal grievance pursuant to Rule 17(a) of the Agreement between the American Train Dispatchers Association and ConRail.

The Carrier has located the Signal Department trouble desk within the confines of the Train Dispatcher's working area.

. . . .

The willful action of the Carrier to place the Signal Department Trouble Desk within the Train Dispatcher's office, clearly violates Rule 23(a). This action draws many employees into the Dispatchers Office, and creates additional noise.

. . . .

You are requested to promptly remove the Signal Department Trouble Desk from the Dispatchers Office....

#4 - 7/12/90 GRIEVANCE, HARRISBURG - SYSTEM DOCKET TD-65

The Carrier has located the Signal Department trouble desk within the confines of the Train Dispatcher's working area.

The open office format now in place in the Harrisburg train dispatcher's office precludes any employees from establishing a work area in the same work space.

Rule 23(a) is supportive in requiring that the Carrier maintain the Train Dispatchers Office '...as private as possible....'

The willful action of the Carrier to place the Signal department trouble desk within the Train Dispatcher's office, clearly violates Rule 23(a).

This formal grievance can be satisfied by removing the signal department trouble desk from the train dispatchers office.

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Organization contends that the Carrier violated Rule 23(a) of the Agreement when it placed the Signal Department trouble desk and the Assistant Superintendent's desk within the Train Dispatcher's office at the following locations: (1) Selkirk, New York, (2) Dearborn, Michigan, (3) Indianapolis, Indiana, and (4) Harrisburg, Pennsylvania. The Organization filed separate grievances for these four locations, but subsequently withdrew the portion relative to the Assistant Superintendent's desk after reaching an accommodation with the Carrier.

Rule 23(a) reads as follows:

"Train Dispatcher offices shall be maintained as private as possible and located so as to minimize interruption or interference from outside noise."

In 1979, when the parties entered into the current Agreement, there were 24 separate dispatching offices, but over the years, as a result of office closings and consolidations, the number of dispatching offices was reduced to six at various Division Headquarters. At the four locations which are the subject of the instant proceeding, the dispatching offices are located within the Computer Assisted Train Dispatching Facility (hereinafter "CATDF"), which employs an "open office" format.

Within the CATDF, all Dispatchers work in the same common office; the Signal Department Trouble Desk (hereinafter "SDTD") is located in the same office. The Organization states that the SDTD was never located within the Dispatcher's office prior to the establishment of the CATDFs, and contends that such location is not necessary in order for the Carrier to conduct its operations. It contends that this has given too many people access to the Dispatcher's office, and has created noise and interference in violation of Rule 23(a).

The Carrier contends that the SDTD must be located within the CATDF since it supports the train dispatching mission of operating trains safely and efficiently and must work closely with the Train Dispatchers in emergency situations; it is thus an integral arm of the train dispatching facility.

The Carrier argues that Rule 23(a) does not require the maintenance of private offices for Train Dispatchers and asserts the right of management to determine the method of conducting its operations. It disputes the Organization's contention that locating the SDTD within the CATDF has created excessive noise and interference, and states that the noise level is "extremely minimal" and does not interfere with the work of the Train Dispatchers.

The Board is being asked to resolve this dispute by determining whether the Dispatcher's offices at the four locations are "maintained as private as possible" and "located so as to minimize interruption or interference from outside noise." The Board finds that it has been presented with irreconcilable statements of facts by the parties, and that it has neither the authority nor the competence to resolve factual disputes such as this. Under well-established precedents of the Board, the claim must therefore be dismissed.

Form 1
Page 4

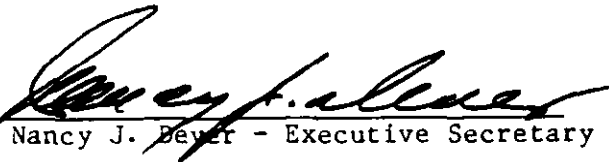
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A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.