

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32919
Docket No. TD-32670
98-3-95-3-607**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(American Train Dispatchers Department/International
(Brotherhood of Locomotive Engineers**

PARTIES TO DISPUTE: (

(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“(A) CSX Transportation, Inc. (‘Carrier’ or ‘CSXT’) violated the effective agreement applicable in the Jacksonville Centralized Train Dispatching Center (‘JCTDC’) including Article 1-(A), Article B-(1) & B-(2) on Friday October 7, 1994 when it allowed an employee not covered by the Scope Rule of said Agreement to exercise primary responsibility for the Movement of trains on the main track at RJ Cabin at 2330 hours, when the yardmaster at Russell, KY., instruct crew on H70506 on the main track at RJ Cabin, not to move their train, that a carman was needed to repair broken drawbar on car at Dupont, the Scope rule was again violated when yardmaster at Russell, advised crew on H70506 not to depart from main track at Dupont switch until car referred to was repaired. Yardmaster at Russell further instructed train H70506 that once car was repaired to advance from main track at Dupont switch, further violating the dispatchers scope rule agreement.

(B) Because of said violations referred to in paragraph A above, the Carrier shall now allow claimant J. E. Bradley one days pay at the rate applicable to truck train dispatchers rate of pay, for Friday October 7, 1994 in addition to any other compensation he may have received for such date.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

As Third Party in Interest, the United Transportation Union - Yardmasters Department was advised of the pendency of this dispute, but it chose not to file a Submission with the Board.

The facts stated in the claim fairly represent what occurred on October 7, 1994. As developed by the record, the Yardmaster at Russell, Kentucky, told a crew at RJ Cabin not to move their train until a car repair was made on a broken drawbar and then once the repair was made to advance the train.

The relevant Rule states:

**"2. Trick Train Dispatchers
Relief Train Dispatchers
Extra Train Dispatchers**

These classes shall include positions in which it is the duty of incumbents 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.

NOTE: These definitions shall not operate to restrict the performance of work as between the respective classes herein defined, but the duties of these classes may not be performed by officers or other employees."

With respect to those arguments raised on the property and thus properly before the Board, by Rule, as a Dispatcher, Claimant was "primarily responsible for the movement of trains by train orders." Similarly, by Rule, that duty "may not be

performed by officers or other employees." Although perhaps innocuous, when the Yardmaster instructed the train to hold and then to move, the above Rule was violated. To that extent, the claim will be sustained.

However, no affirmative relief will be imposed as a result of the brief instructions given by the Yardmaster.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 23rd day of November 1998.