

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32924
Docket No. TD-32929
98-3-96-3-298**

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 its Train Dispatchers basic agreement applicable in the Jacksonville Centralized Train Dispatching Center (‘JCTDC’), particular article 1, Scope rule, Paragraph 1, when the Assistant Chief Dispatcher (‘ACD’) on the Nashville/Chicago corridor was bypassed in the distribution of power.

(B). Because of said violation, the Carrier shall allow one days pay at the rate of ACD for Claimant D. G. Barker in addition to any other compensation he may have received on April 27, 1995.”

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.

On April 27, 1995, the Manager Locomotive Distribution (MLD) issued direct instructions by electronic work order to Train R59627 to set out engines at Danville, Illinois, and to Train R55728 to pick up an engine at Guthrie and take it to the Nashville Shop. This was done through the Carrier's automated computer Work Order System (WOS). Communications through the WOS were used instead of the prior Advance Message Switching System (AMS) which caused a message to be sent from the MLD to the Chief Dispatcher (CD) or ACD; a follow up call to the CD or ACD that the message was in their library and then further communication by Dispatching perennial to the crews. Through use of the WOS, the MLD could now communicate motive power instructions directly to the crews bypassing Dispatching personnel. This claim followed with the assertion that bypassing the Dispatchers amounted to the improper performance of scope covered work.

In Third Division Award 29681 between the parties, the distinction was made between motive power instructions for work performed on a local basis (which was scope covered) and such instructions for work now performed on a system-wide basis (which is not scope covered):

"The resolution of this dilemma lies in the arena where the supervision occurs. As noted by Carrier, the utilization of motive power is no longer simply a Divisional or territorial concern. Interdivisional trains will use a locomotive consist across the system, and power distribution decisions must take this into account. Thus, this work goes beyond the scope of dispatching, which is bound by Divisional or territorial boundaries. Such was the decision of Public Law Board No. 3829 [Award 1]. When the decisions are made on a system-wide basis, as they are on this Carrier, Public Law Board No. 3829 concluded that they are not covered by the Scope Rule. Neither are the instructions which issued to effectuate those decisions. We must conclude, therefore, that the Agreement has not been violated."

As found in Third Division Award 29681 and Public Law Board No. 3829, Award 1, and as shown by this record, motive power decisions such as the ones made in this case are now made on a system-wide basis. Under authority of those Awards, the claimed work was therefore not scope covered and the claim must be denied.

Public Law Board No. 5675, Award 1 recognized the local/system-wide distinction articulated in Third Division Award 29681 and Public Law Board No. 3829, Award 1, but nevertheless found that the instructions involved in that case were a "divisional assignment of power" and sustained the claim. However, based on what is before us in this case, the instructions here were part of motive power decisions made on a system-wide basis. Public Law Board No. 5675, Award 1 therefore does not change the result.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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