

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

**AMERICAN TRAIN DISPATCHERS ASSOCIATION
MISSOURI PACIFIC RAILROAD COMPANY**

STATEMENT OF CLAIM: "Claim of the employees that:

"1. The Management violated, and continues to violate the train dispatchers' agreement, when, effective 12:01 A. M., June 16th, 1935, train dispatchers were removed from their schedule positions as train dispatcher, operating General Railway Centralized Control Signal System Machine No. 54000 GR1 Spec 3510, at Leavenworth, Kansas, and the operation thereof transferred to towermen at that point, in a tower where regular tower work was handled, to which the machine was moved.

"2. The train dispatchers removed from said positions should be restored thereto and compensated for any wage loss and other expenses caused by their removal.

"3. The train dispatchers affected through displacement, caused by this action of the Management, should be compensated for any wage loss and expenses caused thereby."

STATEMENT OF FACTS: On or about December 29, 1929, a centralized Control Machine, superseding a train order system of dispatching trains between Edgewater Junction and Atchison, Kansas, a distance of 42.42 miles, was installed at Leavenworth, Kansas, and was manned by train dispatchers taken out of the Atchison dispatching office. The operation of the machine and the work incident thereto were their only duties.

On or about November 10, 1930, these train dispatchers were displaced by telegraphers. At that time there was no agreement recognized by the Missouri Pacific Management covering the work of train dispatchers.

On or about April 18, 1932, these telegraphers were taken off and dispatchers again assigned to the operation of this machine and in addition performed the train dispatching on the Central Kansas Division by train orders.

Effective May 16, 1935, an agreement covering working conditions of train dispatchers was consummated between the Missouri Pacific Railroad Company and the American Train Dispatchers Association representing the Missouri Pacific train dispatchers.

Train dispatchers remained in charge of the Centralized Control Machine at Leavenworth from April 18, 1932, until June 15, 1935 (one month after the agreement mentioned above became effective), on which date train dispatchers were displaced by towermen, under the telegraphers' agreement, over the protest of the representatives of the train dispatchers. At the same time the dispatching office located at Leavenworth was closed, the balance of the work being moved to Atchison.

This resulted in the abolishment of three full time dispatching positions and the creation of a one-half time relief position, a net loss to train dispatchers of two and a half full time jobs.

POSITION OF EMPLOYES: It is the position of the Organization that at the time the dispatchers' agreement was negotiated, train dispatchers were assigned to the work of operating this Centralized Control Machine; that it was recognized as train dispatchers' work, as such was negotiated into the train dispatchers' agreement, and that it was a violation of that agreement to take that work away from employees working under that agreement and assign it to employees under another agreement.

POSITION OF CARRIER: The position of the carrier is that the train dispatchers had no claim to this work, for the reason that the train dispatchers at Atchison, subsequent to the last change, were at all times in supervision of the work of the operators of the machine at Leavenworth; and the work of operating the unit belongs under the Telegraphers' agreement.

OPINION OF BOARD: This case is quite similar to the situation involved in Award No. 616. It presents a real jurisdictional dispute between the Dispatchers and the Telegraphers as to how these machines should be manned.

Consequently, the case should be remanded for conference between the three parties in interest; i. e., the Dispatchers, the Telegraphers, and the carrier to adjust if possible, by agreement, failing which their proper forum is the National Mediation Board.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

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 the Adjustment Board has no jurisdiction over the dispute involved herein.

AWARD

Case remanded in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Ill., this 4th day of May, 1938.