

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

INDIANA HARBOR BELT RAILROAD

STATEMENT OF CLAIM: "Claims of C. B. Varner, R. W. Brown, R. C. Boardway and other relief train directors for a minimum day each, June 13, 1940, and all subsequent dates, account of operating highway crossing gates at Grasselli, Indiana, in addition to duties as Train Directors. Agreement as of August 1, 1939, does not contain any rule that requires of us to operate gates."

EMPLOYES' STATEMENT OF FACTS: "We feel that our work has been increased at least one third. Attending the gates is very exacting work as it is something that we must have always on our mind for we must never forget to lower the gates and further they must be lowered at the proper time to insure safety and avoid undue delay to vehicular and pedestrian traffic.

"Automobile traffic is very heavy at this point as you can understand by the report of the State Inspector on the day they were installed. He reported 562 machines crossed the crossing between 3:00 o'clock P. M. and 4:00 o'clock P. M. on the day the gates were installed. We the undersigned men handling this work respectively, ask your due consideration of this matter towards a just compensation for this work."

POSITION OF EMPLOYES: "The three claimants have been employed at Grasselli Station for a period of twenty-one (21) years and over as train directors having jurisdiction over both main tracks, Calumet River North to Indiana Harbor, Indiana for both the Indiana Harbor Belt Railroad and the Danville Division of the New York Central Railroad. In addition, the branch Line Division of the Indiana Harbor Belt Railroad known as the East Chicago Belt, also the Cudahy Packing Plant track lead.

"The duties of said train directors have always kept them busy without any such responsibilities placed upon them as set forth in the employees statement of facts, and no consideration was given either the Committees or the employees of any such increased duties as set forth in the claimants current agreement effective as of August 1, 1939, Article 20: Quote:

'ARTICLE XX.

'ADJUSTMENT OF CONTROVERSIES

"Any controversy arising as to the application of the rules herein agreed upon shall be taken up by the Local Committee and the Superintendent. In the event of failure on their part to agree on a satisfactory basis of settlement, the General Committee of the Brotherhood of Railroad Trainmen, representing the employees, may take up the question with the General Manager, and in the event of their

"That the carrier and the employes involved in this dispute are respectively carrier and employes 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 evidence of record does not disclose any violation of the Agreement.

'AWARD—Claim denied.'

"All of the above evidence conclusively demonstrates that it is not a violation of a Telegraphers' Agreement to require employes covered by that agreement to operate highway crossing protection devices as was done in the instant case.

"The above is a brief statement of the matters considered in the several conferences held on the property in an attempt to negotiate an understanding to apply in these circumstances and we are confident it will demonstrate to the Board that this is a case which should be dismissed for lack of jurisdiction. If the Board takes jurisdiction and holds a hearing this carrier desires to be represented and given opportunity to make appropriate answer to any arguments advanced by the employes in support of their position."

OPINION OF BOARD: This claim, on behalf of the regular and relief train directors at Grasselli, is for an additional day's pay on account of operating crossing gates on and after June 13, 1940.

The Agreement, effective August 1, 1939, cited and relied upon by the Employes, makes no provision for an allowance for operating gates, and it is not within the jurisdiction of this Board to supply such provision, but the record shows that effective July 16, 1939, the same parties here involved did by another Agreement provide for an allowance of 28 cents per day to each of three switchtenders at Columbia Avenue for operating gates.

The record also shows that in the handling of this dispute on the property both parties made proposals as to allowance for this gate operation but they did not reach an agreement.

In view of the incomplete negotiations, the Board finds that the dispute should be returned to the parties for further handling in accordance with the provisions of the Amended Railway Labor Act.

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 Employes involved in this dispute are respectively Carrier and Employes 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 dispute will be returned to the parties for handling in accordance with the Opinion.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of May, 1941.