

Award No. 1455  
Docket No. MS-1578

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD TRAINMEN**

**INDIANA HARBOR BELT RAILROAD**

**STATEMENT OF CLAIM:** "Claim of L. J. Patno and others from September 1, 1938, and various other dates until August 1, 1939, requesting that they be paid the established Train Directors rate of pay or same as paid Train Directors at Grasselli, Indiana (\$7.40 per day)."

**EMPLOYES' STATEMENT OF FACTS:** "The duties required of the claimants are the directing of train movements on East and West main tracks of the Indiana Harbor Belt Railroad as well as directing movements of Illinois Central trains from High Lawn to Blue Island in both directions, also directing movements of Chicago and Eastern Illinois and Pan Handle Division of the Pennsylvania Railroad both directions, Dolton, Illinois to Blue Island, Illinois, and the rate of pay same as paid Train Directors at Grasselli Station at Grasselli, Indiana, which is \$7.40 per day should apply."

**POSITION OF EMPLOYES:** "The differential rate of pay should be paid the employes at Halsted Street Station, Blue Island, Illinois as their duties are duties of Train Directors as set forth by the operating rules of the Carrier. They also direct train movements at Dolton, Illinois, a distance of about one mile from Halsted Street, either for movement on Eastward main track or Eastward passing track by a remote control or by instructions from the dispatcher.

"Positions referred to were paid the Train Directors rate for many years and no changes were made as to the duties or responsibilities of claimants.

"Committee further offers as exhibit No. 1, letter from Superintendent Mr. W. P. Lamb of February 2, 1939, addressed to Mr. L. J. Pateno, switch-tender. Quote:

'Gibson, Indiana, February 2, 1939.  
File No. 27-3.

Mr. L. J. Pateno  
Switchtender,  
Halsted Street.

With further reference to our letter of January 31st.

I now return the following timeslips claiming Train Director's rate of pay at Halsted Street September 1, 1938 to September 30, 1938, inclusive, and one dated January 27, 1939, all received in this office February 1st.—January 28th, 29th, and 30th, 1939 received in this office on February 2nd.

Time claims are returned to you for same reason as stated in letter of January 31st.

/s/ W. P. Lamb, Superintendent.'

"Further position of the Committee; that the rate fixed for Halsted Street Station of \$5.80 per day did not dispose of the claim referred to in this submission, as no mention was made of such negotiation being under consideration with Superintendent W. P. Lamb and Local Chairman L. M. Lawrence at time agreement was entered into by Mr. W. J. O'Brien, General Manager of the Carrier and Mr. J. H. McQuaid, Vice President of the Brotherhood of Railroad Trainmen effective as of August 1, 1939, and no mention was made regarding the then pending claims at the time of settlement August 1, 1939 to cancel out the claims now being submitted."

**CARRIER'S STATEMENT OF FACTS:** "The claim in this case is that employes in the telegrapher class, designated and rated as operator-switch-tenders, who work in that capacity at 'BI' office, Halsted Street, Blue Island, Illinois, should be designated and rated as train directors, the rate to be the same as that paid to train directors at Grasselli whose positions are also included in the telegrapher class.

"The agreement covering employes in the telegrapher class on the Indiana Harbor Belt was negotiated with the Brotherhood of Railroad Trainmen following settlement in Mediation Case A-472, dated June 27, 1938, a copy of which settlement is attached as Carrier's Exhibit No. 1. Negotiations commenced on August 25, 1938, and were concluded on July 21, 1939, and during the progress thereof the question of the title and rate for the men employed at 'BI' office was exhaustively discussed. Complete agreement was reached with the representatives of the employes under the terms of which the positions in 'BI' office carry the designation 'operator-switchtender' and are paid hourly rate of 72½ cents, which is 20 cents an hour less than the rate paid the train directors at Grasselli, whose working conditions and rate of pay were also agreed to during these same negotiations.

"A copy of the agreement 'establishing rates for positions of Switch-tenders, Switchtender-Operators and others shown herein, effective July 16, 1939,' is attached hereto as Carrier's Exhibit No. 2. The title and rate of the switchtender-operators at Halsted Street are a matter of agreement between the B. R. T. and the carrier."

**POSITION OF CARRIER:** "This dispute should be dismissed by the Third Division for the reason that the claim involves a request for increase in a rate of pay and the National Railroad Adjustment Board has no jurisdiction over such a matter. Furthermore, the classification and rating of the Halsted Street switchtender-operators having been agreed upon through negotiations between the designated representatives of the telegraphers' class and the Indiana Harbor Belt management, they can only be changed through negotiations between the same parties. Failing to agree upon changes through negotiations, mediation is the orderly course under the Railway Labor Act.

"Based upon the reasons above recited, the carrier challenges the jurisdiction of the Third Division; therefore no good purpose would be served by presenting argument on the merits of the claim. If the employes request a hearing, the carrier will be represented at the hearing and present such further argument as it deems appropriate to answer the statements of the employes."

**OPINION OF BOARD:** This claim is that switchtender-operators employed at Halsted Street, Blue Island, Illinois, shall be designated as train directors and paid at the rate of \$7.40 per day during the period September 1, 1938, to August 1, 1939.

The record shows that by Mediation Agreement dated June 27, 1938, the employes at Halsted Street were designated as switchtender-operators and that by Agreement between the parties, effective July 16, 1939, these same employes were classified and rated as switchtender-operators.

Neither of these Agreements provided classification and rate of pay for train directors, Halsted Street, and it is not within the jurisdiction of this

Board to supply such classification and rate of pay. It is also shown that, effective July 16, 1939, the same parties here involved did by another agreement provide a rate of \$7.40 per day for Train Directors at Grasselli Tower and 55th Street Tower.

As in Award 1454, Docket MS-1561, 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 Employees involved in this dispute are respectively Carrier and Employees 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.