Award No. 8174
Docket No. MW-7479

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement beginning on July 11, 1954, when it abolished the position of crossing watchman at Main Street, Fort Valley, Georgia, and thereafter assigned the work of protecting this crossing to employes in the Train Service Department, who hold no seniority as crossing watchmen.

(a) The Carrier to be required to restore the crossing protection work at Main Street, Fort Valley, Georgia, to the employes holding seniority as crossing watchmen under the effective Agreement.

EMPLOYES' STATEMENT OF FACTS: Crossing protection work at Main Street, Fort Valley, Georgia has historically and traditionally been assigned to and performed by crossing watchmen.

Positions of crossing watchmen, the incumbents thereof, and the work inherent thereto are covered by and subject to the rules of the "Agreement between the Central of Georgia Railway Company and its Maintenance of Way Employes as represented by the Brotherhood of Maintenance of Way Employes", the Twenty-First Edition becoming effective September 1, 1949, and still currently in effect.

Effective as of July 11, 1954, the Carrier required crossing watchmen to discontinue performing crossing protection work at Main Street, Fort Valley, Georgia and, under the guise of abolishing the positions of crossing watchmen at that point, assigned the crossing protection work formerly performed by such crossing watchmen to employes of the train service department who hold no seniority under the effective Agreement. The aforesaid Carrier action was taken without benefit of negotiations with or approval of the Brotherhood of Maintenance of Way Employes, but was unilaterally taken by the Carrier by Bulletin Order No. 54303 reading as follows:

the classification of crossing tender but does not require their employment at any specific crossings."

Carrier maintains that it has long been recognized that it is a managerial prerogative to determine whether or not any crossing protection is necessary; whether or not this protection shall be by those employes whose equipment is to pass over the crossing; whether the assigned manual protection, if any, shall be allocated to the telegraphers located nearby, or to crossing watchmen; the hours and days during which manual protection shall be provided at any specific crossing; and at any time to increase, decrease, or entirely discontinue manual crossing protection by its employes at any specific crossing.

Members of train crews have been required to provide public highway crossing flagging from time immemorial on this property. The flagging of highway crossings is positively and definitely a duty incidental to the operation of a train, in precisely the same manner that the performance of some clerical work is incidental to many non-clerical positions.

CONCLUSION

By facts of record, Carrier has clearly shown that there is absolutely no merit in this claim because, (1) it is not supported by any rule of the effective agreement; the job was in fact abolished in strict accord with Rule 7, and (3) crossing protection does not belong exclusively to the Maintenance of Way employes. The claim should be denied, and the Carrier urges this Board to so hold.

All data submitted in support of Carrier's position in this case has been presented orally or by correspondence to the Employes or duly authorized representative thereof, and made a part of the dispute.

(Exhibits not reproduced).

OPINION OF BOARD: This case is a companion case to Award No. 8173.

Other than for certain minor differences in facts, which are not of a substantial nature in our opinion, and the locations involved, the cases are the same, and this case is governed by Award No. 8173. For the reasons set forth in that Award, the claim here is denied.

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 Carrier did not violate the effective agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By ORDER of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary.

Dated at Chicago, Illinois, this 17th day of December, 1957.