

Award No. 12091
Docket No. TD-14073

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Michael J. Stack, Jr., Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

PENNSYLVANIA-READING SEASHORE LINES

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that:

(a) The Pennsylvania-Reading Seashore Lines, (hereinafter referred to as "the Carrier"), violated and continues to violate the effective schedule Agreement between the parties, dated May 1, 1946 and particularly Part II, Scope, thereof, when beginning September 16, 1961, it requires Movement Directors to perform duties not within the scope of the Agreement.

(b) The Carrier shall now be required to compensate the individual claimants named in the attached Exhibits, for each date as claimed, beginning September 16, 1961 through April 30, 1962, at the pro rata rate of the position of Wire Chief.

(c) From April 30, 1962 and until such time the said violation ceases, Carrier shall likewise compensate on a continuing basis, Movement Directors who are required to perform the duties of Wire Chief, at the pro rata rate of the position of Wire Chief for each day such service is performed.

EMPLOYEES' STATEMENT OF FACTS: A Schedule Agreement is in effect between the parties, effective May 1, 1946, since amended. A copy of said Agreement is on file with this Board and by this reference is incorporated herein as though fully set out.

Part II of said Agreement is applicable to Movement Directors, the classification of employees here involved. For the Board's ready reference the pertinent provisions of the Scope of Part II are here quoted:

"The Provisions set forth in Part II of this Agreement shall constitute an Agreement between the Pennsylvania-Reading Seashore Lines and its Movement Directors, represented by the American Train Dispatchers Association, and shall govern the hours of serv-

dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties thereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

CONCLUSION

The Carrier has shown that the Scope Rule was not violated because the work in question was not work which accrued exclusively to the Wire Chiefs and the Claimants are not entitled to the compensation claimed.

Therefore, the Carrier respectfully submits your Honorable Board should deny the claim of the Employees in this dispute.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter, and the establishment of a record of all of the same.

All data contained herein have been presented to the employees involved or to their duly authorized representative.

(Exhibits not reproduced.)

OPINION OF BOARD: Two issues are raised by this docket.

1. Have the Claimant employees who are Movement Directors introduced sufficient uncontroverted facts to establish that certain work was work exclusively within the scope of Wire Chiefs work, and,
2. Would it violate the Train Dispatchers Agreement to require the train dispatchers to do that work heretofore done exclusively by the telegraphers?

In 1961 the Carrier abolished the second trick Wire Chief at its Camden facility. It instructed the second trick Movement Director whose office was located across the hall from the Telegraph Office to relay Signal Department trouble to the C&S (Communications and Signals) Supervisor, to copy inbound messages from the teletype and to receive certain telephonic reports from various outlying points. These duties had been performed by the second trick Wire Chief.

These additional duties were performed under protest with the A.T.D.A. claiming that such work was without the scope of its agreement and within the scope of O.R.T. Agreement.

The Carrier asserted that it had been the practice for many years for the third trick Movement Director to go to the Telegraph Office and copy information from the teletype as there had never been a third trick Wire Chief at this Office. It further asserted that the third trick Movement Director had always relayed Signal Department trouble to the C&S Supervisor and that the Movement Directors on both the second and third tricks had always received the telephonic reports referred to above from the outlying districts.

In resolving this dispute reference to the language of the agreements relative to the scope of Movement Directors work and Wire Chiefs work is not helpful since these activities are described by position and not work. In such case where the scope is defined in terms of positions rather than work, its coverage with regard to any specific position is the work traditionally and customarily performed by employees assigned to that position as shown by past practice. And here it must be established that the work which is the subject of this claim is the exclusive work of the telegrapher craft.

The Organization in its reply vigorously denied many of the Carrier's assertions but a letter from its General Chairman indicated that at least some of the claimed activities had as a matter of expediency been voluntarily done by the third trick Movement Director.

After careful review of the record the Claimants have not satisfied us that the work in question was exclusively that of the telegrapher craft.

Because of our conclusion on this issue we do not reach the merits of the second issue.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of January 1964.