

Award No. 13648

Docket No. TD-14863

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Ross Hutchins, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

**NEW YORK CENTRAL RAILROAD
(Southern District)**

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

(a) The action of the New York Central Railroad Company (hereinafter referred to as "the Carrier"), in disqualifying Train Dispatcher J. E. May, Indianapolis, from train dispatcher service on January 23, 1964, was arbitrary, capricious and in abuse of managerial discretion and therefore in violation of the schedule agreement between the parties, Article 9 thereof in particular.

(b) That because of the said violation of the schedule agreement the Carrier be required to reinstate the individual claimant to train dispatcher service with all rights unimpaired and compensate him in the amount representing the difference between his earnings in other service of the Carrier and what he would have earned as train dispatcher.

OPINION OF BOARD: The Claimant committed a violation when he put Number 108 on two train orders in the same day. The Carrier demoted the Claimant to Operator. The penalty is severe but we cannot say that the penalty in light of the employee's record which was proper evidence for the purpose of assessing penalty was unreasonable, arbitrary, capricious or discriminatory.

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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois. this 2nd day of June 1965.