

**Award No. 14103**

**Docket No. TE-13433**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Daniel House, Referee**

**PARTIES TO DISPUTE:**

**THE UNITED STEELWORKERS OF AMERICA  
(Local Union 1913)**

**UNION RAILROAD COMPANY**

**STATEMENT OF CLAIM:** This claim represents a grievance filed in behalf of W. L. Kokas and B. J. Myers, senior qualified operators for compensation for wages which they would have earned from January 15, 1961 to January 26, 1961 and from February 10, 1961 so long as the violation continues, in the case of W. L. Kokas and from January 26, 1961 to February 10, 1961 in the case of B. J. Myers, at the second class operator's rate at Bull Run Tower.

As set forth in the grievance report, a true and correct copy of which is attached hereto and made a part hereof as Exhibit A, the claim charges that members of train crews and Train Movement Directors are performing second class operator's work as directed by the Second Paragraph of General Order No. 9947 on January 13, 1961, a copy of which is attached hereto and made a part hereof as Exhibit B, and also as per General Order No. 9943, dated January 12, 1961 a copy of which is attached hereto and made a part hereof as Exhibit C. The crux of this dispute as seen by the organization is that the Carrier has taken work which belongs to the bargaining unit and has assigned same to members of train crews who are not part of the bargaining unit and also the Train Movement Directors who are part of Management and therefore, not part of this bargaining unit.

**EMPLOYEES' STATEMENT OF FACTS:** As set forth in the Statement of Claim above and also as more fully enlarged in the grievance report, Exhibit A hereto, this claim arose as the result of the posting of General Orders Nos. 9943 and 9947 wherein notice was given that in the case of emergency certain procedures would be followed at Curry Hollow, normally controlled by the operator at Bull Run Tower and in the case of General Order No. 9947, notice was given that during the hours that there is no operator on duty at Bull Run Tower, movements made at Curry Hollow would be made manually, operating the power switches at Curry Hollow in accordance with the instructions included in General Orders No. 9943 under the direction of the Train Movement Director.

**POSITION OF EMPLOYEES:** The organization contends that all the employees classified as operators have contractual rights and obligations to

4. Train Movement Directors have always, and continue to do so at the present time, granted permission for train crews to enter Main Line tracks by telephone.

5. Awards of the National Railroad Adjustment Board cited by the Carrier support the Carrier's position.

6. The employes have failed to show that there has been a violation of any agreement rules and, in effect, are requesting this Board to amend existing rules or to write new ones.

\* \* \* \* \*

The Carrier, at the beginning of its position, showed that it is an inherent right of the trainmen's craft to handle manually operated switches and that for this reason, if this Board should feel that there might be some merit to the employes' claim, it must necessarily under the provisions of Section 3, First (j) of the Railway Labor Act give notice to all employes who might be affected thereby.

On the other hand, if this Board should, without giving notice to the Brotherhood of Railroad Trainmen, decide that the employes' claim has no merit, and we strongly urge it should, there would be no further question as to whether or not this Division has jurisdiction over the dispute.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Effective January 15, 1961, Carrier abolished the position of third turn "BR" tower operator. Thereafter "BR" and "MO" Tower operators were instructed at completion of the second turn to line their switches in such a way that certain moves could be made through the interlocking area on the third turn without anyone handling switches at all, except for the switches in the Curry Hollow area which could be operated either manually or by automatic control through the "BR" Tower. Thereafter train crews, not covered by the Steelworkers' Agreement, operated Curry Hollow switches manually during the third turn. During that same time, crews of trains about to enter the main track in the area called the Train Movement Director, who is not covered by the Steelworkers' Agreement, to receive permission to enter the main track.

Steelworkers' claim is most clearly set forth in its Ex Parte Submission: "... the claim charges that members of train crews and Train Movement Directors are performing second class operator's work ..." in violation of Rule 68A. To support the claim it is necessary for Steelworkers to prove that the manual operation of the switches at Curry Hollow, as done by the trainmen, is work reserved exclusively to Steelworkers and to prove that Steelworkers have the exclusive right to communicate the permission to trains to move onto the main track, as done by the Train Movement Director.

Steelworkers argue that the text of Rule 68A proves their case, and quote from it:

"Tower and telegraph operators shall perform the generally recognized work of first-class, second-class, single-line operators on the Union Railroad."

But Steelworkers have not proved by any evidence that the involved work is such operators' work as is referred to in the quoted rule or that the involved work belongs exclusively to them on any other basis. We will therefore deny the claim.

**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 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 24th day of January 1966.