Award No. 18589
Docket No. TD-18875

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(a) The St. Louis-San Francisco Railway Company (hereinafter "the Carrier") violated the effective Agreement between the parties, Article I thereof in particular, when on May 27, 1969, it required and/or permitted other than those covered thereby, to perform work covered by said Agreement.

(b) Carrier shall now compensate Train Dispatcher F. DeBerry one day's compensation at time and one-half the daily rate applicable to Assistant Chief Dispatcher for said violation on the rest day of Claimant.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, copy of which is on file with this Board, and the same is incorporated into this Ex Parte Submission as though fully set out herein.

Article 1 — Scope is identical in the Agreement effective September 1, 1949, revised as of January 1, 1953 and again revised effective October 1, 1965, insofar as the rules material to this dispute are concerned.

For the Board's ready reference, Article I, Scope, of the Agreement is here quoted in full text:

"ARTICLE I

(a) SCOPE

This agreement shall govern the hours of service and working conditions of train dispatchers. The term 'train dispatcher' as hereinafter used, shall include night chief, assistant chief, trick, relief and extra train dispatchers. It is agreed that one chief dispatcher in each dispatching office shall be excepted from the scope and provisions of this agreement.

CLAIM 38

This claim was presented on the following reported Statement of Facts:

At 9:10 A.M., June 17, 1969, Mr. C. E. Hurt, Trainmaster, Quanah, Texas, instructed train No. 31 at Synder, Oklahoma to bring what he has handy to Quanah. If possible bring 10 mty covered hoppers and 2 mty box.

No. 31 did as instructed.

The various reasons given for the declination of this claim are set forth in the Carrier's letter November 19, 1969, copy attached as Carrier's Exhibit No. 38. The trainmaster who is alleged to have committed the violations in Claims 37 and 38 is one of the division officers who, as such, has responsible control over the operation of a division, or a terminal, or of a major activity within an operating division, and when acting in the discharge of his duties and responsibilities, it is not mandatory that a division trainmaster exercise such responsible control only through employes of the train dispatchers' class, nor do the Rules of the Train Dispatchers' Agreement place such a hinderance or limitation upon him.

(Exhibits not reproduced.)

OPINION OF BOARD: On the date of the claim the Trainmaster at Enid, Oklahoma issued the following instructions to the Operator with a copy to the Chief Dispatcher at Springfield, Missouri:

"Enid May 27-69

HOB SO

"Hold one unit off No. 637 for Extra West and Southard Switcher. Will use unit off Avard turn on Southard Switcher. Run 1 unit on No. 661 in A.M. Operator be sure dispr leaves a place to run Southard Swr about 2:00 P.M.

"Southard will order what he needs on No. 661 in A.M. and what he will require on Southard Switcher tomorrow P.M. Joint Yard RTE Opr. HOB

WHH"

A trainmaster generally has the right to instruct the Dispatcher with respect to the use of engine units, but the "distribution of power and equipment", which is incidental to the handling of a train, belongs exclusively to train dispatchers. See Award No. 1 of Public Law Board No. 588 on this property. While the Chief Dispatcher received a copy of the message, the "distribution of the power and equipment" was actually made by the Trainmaster. This is particularly so when he directed the Operator to "be sure that the dispatcher leaves a place to run Southard Switcher about 2:00 P. M."

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 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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1971.

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