

Award No. 19085  
Docket No. TD-18893

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

David Dolnick, Referee

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**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 1 thereof in particular, when on June 22, 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 H. C. Terhune 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.

**EMPLOYEES' 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 I—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 1, Scope of the Agreement is here quoted in full text:

**"ARTICLE 1**

**(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.

Note (1): Positions of excepted chief dispatcher will be filled by employees holding seniority under this agreement.

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 employees of the train dispatchers' class, nor do the Rules of the Train Dispatchers' Agreement place such a hindrance or limitation upon him.

**OPINION OF BOARD:** Employees' allege that Trainmaster W. H. Hulsey, at Enid, Oklahoma sent the following message:

"En A 004 SO 332 06/23/9 0031  
Enid, Okla., 11:30 P. M., June 22-23

HOB SO

Perry work train will run to Perry and pick up RL-30 and gons at Perry and will need work order between Perry and Terlton and tie up at Perry Monday P. M. June 23. Work train pick up section men at tool house Enid.

W. H. H.  
06-23-9 0031"

There is no question that the above instructions were issued as alleged. But they were not issued to the work train crew, but rather to "HOB" who is H. O. Buzbee, the Chief Dispatcher at Springfield, Missouri. There can be only one assumption and that is that the crew on the work train acted through the Chief Dispatcher. There is no evidence in the record upon which any other reasonable conclusion can be reached.

Award No. 1 of Public Law Board No. 588, on this property, held a Trainmaster has every right to instruct the Chief Dispatcher how and when trains are to be moved. It is not a train order and does not authorize the train crew to make precise moves. "Such an informational and instructional message," said that Board, "is not one which falls within the exclusivity definition belonging to Train Dispatchers."

**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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March 1972.