

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20213  
Docket Number CL-20328

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees  
( (formerly Transportation-Communication  
( Division, BRAC)  
(  
(Maine Central Railroad Company  
( Portland Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Transportation-Communication Division, BRAC, on the Maine Central - Portland Terminal Company, GL-7339, that:

1. Carrier violated Article 7 of the January 1, 1951 Agreement when they neglected to call G. F. Melvin on duty to copy orders.

2. Carrier shall be required to compensate Claimant a two hour call at punitive rate Agent Oakland for this violation.

OPINION OF BOARD: Claimant asserts that Carrier violated Article 21 by allowing employees not within the scope of the agreement to handle an order to return an Engine to Waterville.

In appropriate part, Article 21 states:

"(a) No employee other than covered by this Agreement and Train Dispatchers will be permitted to handle train orders except in cases of emergency.  
(underscoring supplied)

(c) Emergencies....shall include only...., engine failures,....that could not have been anticipated  
...."

The record shows that an employee not within the scope of the agreement issued the order in question. Claimant states that there was not an engine failure, but merely "mechanical trouble."

This Board has fully considered the record, and the Awards cited by the parties. We are of the view that the issue of "emergency" was raised on the property. Further, there is nothing of record to suggest to us that the Engine in question merely suffered "mechanical trouble." Rather, the entire record convinces us that on the day in

question there was "engine failure" and that the Carrier's action was permissible under the exceptions to Article 21. Accordingly, we will deny the claim.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of April 1974.