

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21124
Docket Number CL-21060

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7739) that:

1. Carrier violated the Agreement between the parties when on July 11, 12, 13, 14, and 16, 1973, it required and permitted employees not covered by the Agreement located at Potomac Yard, Alexandria, Virginia, to receive and copy by telephone, train orders governing the control and movement of trains,

2. Because of these violations, Carrier shall compensate the following named employees for each date and incident listed, one three (3) hour pro rata payment: R. H. L. Bowen - July 11, 13, 13, 14 and 14, 1973, and J. B. Carpenter, Jr. - July 12, 12, 16, and 16, 1973.

OPINION OF BOARD: There is no dispute relative to the operators' rights to copy train orders under the provisions of Rule 65

"RULE 65

Train Orders -- Clearance Forms -- Blocking Trains.

Copying train orders, clearance forms or blocking trains at stations where an employee qualified to do so under this agreement is employed will be confined to such employee (provided he is available and can be promptly located). When such an employee is not used in conformity with this rule he shall be promptly notified by Chief Dispatcher and paid three hours at pro rata rate. This rule does not apply to Train Dispatchers performing such duties at/or in the vicinity of the dispatcher's office location in the normal course of their regular duties.

Except in emergencies, when employees not covered by this agreement are required to copy train orders, clearance forms or block trains at a location where no qualified employee covered by this Agreement is employed, the proper

"qualified employee at the closest location where a qualified employee covered by this agreement is employed shall be promptly notified by Chief Dispatcher and paid three hours at pro rata rate.

Emergencies as referred to in this rule are:

- (1) Storms, fogs, washouts, high water;
- (2) Wrecks, slides, snow blockages;
- (3) Accidents;
- (4) Failure of fixed signals or train control;
- (5) Hot boxes, engine and equipment failure, and break-in-two's;

all of which were not foreseen prior to train passing or leaving last open communicating station and which would result in serious delay to trains;

- (6) Danger to life or property requiring immediate attention.

Where an employee under this Agreement is instructed by train dispatcher or other authority to clear train or trains before going off duty, leaving clearance form or orders in some specified place for those to whom addressed, such employee shall be paid three hours at pro rata rate.

Delivering train orders will be confined to employees under this Agreement and train dispatchers.

Securing Line-Up Information and Authority For Motor Car Movements.

When track car operators are required to secure line-up or train location report information or authority for motor car movement, such information will be secured as follows:

- (1) At a point where a qualified employee under this Agreement is employed and on duty, track car operators will secure such from him.

- (2) At a point where a qualified employee under this Agreement is not employed or where such employee is employed but not on duty, track car operators will secure same from the closest qualified employee under this Agreement who is readily available.

- (3) When necessary to secure direct from train dispatcher by others than as provided above at a point where a qualified employee under this Agreement is employed, the proper employee will be paid three hours at pro rata rate.

"(4) When secured direct from the train dispatcher by others than as provided above at a point where a qualified employee under this Agreement is not employed, the proper employee at the nearest location to the point will be paid three hours at pro rata rate.

NOTE -- This Rule is not applicable on the B&OCT or SIRC."

However, in the operation involved in this case there is no Rule, either expressed or implied, which requires that the train and/or engine crew member who receives the message relative to slow orders in the Centralized Traffic Control territory involved must copy such message.

A careful review of the record indicates that Petitioner has failed to substantiate that train orders were required to be copied by any member of the trains leaving Potomac Yard on the dates herein involved. Therefore, we must deny the claim. See Awards 19602, 20724 and Award No. 1 of Public Law Board No. 453.

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 16th day of July 1976.