

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21681
Docket Number CL-21567

Irwin M. Lieberman, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8057) that:

(1) Carrier violated the Agreement between the parties at Fenelton, Pennsylvania, when it refused to allow Mr. D. A. Schlemmer, 3 hours' pay for August 6, 1973.

(2) Carrier shall compensate Claimant Schlemmer, 3 hours' pay at the rate of the first trick operator position at WS Tower, Pennsylvania for the date of August 6, 1973.

OPINION OF BOARD: In this dispute Claimant was assigned as Block Operator at Carrier's WS Tower in Butler, Pennsylvania. On the date in question Claimant copied and delivered a train order to the crew of Extra 6911 North. Contained in that order were instructions to the conductor to call for further instruction at a point named Fenelton. Upon arrival at Fenelton, the conductor called the Claimant Block Operator who contacted the Train Dispatcher in turn, who authorized Extra 6911 to proceed to its destination. Claimant relayed this information to the Conductor and the Claim as outlined in this case ensued.

The issue in dispute is whether or not the Conductor in charge of Extra 6911 North "blocked trains" when he stopped at Fenelton and called the Claimant for further instructions, in violation of Rules 1 and 65 of the applicable Agreement. Related issues and similar contentions were advanced by these same parties and considered by this Board in Awards 21074 and 21326.

From the record of this case it is apparent that the Conductor did not copy any train orders at Fenelton. Neither did his action of calling the Claimant Block Operator for instructions constitute "blocking of trains" as that function has been defined in Award No. 12768.

Based on the entire record of this dispute, and in view of this Board's previous decisions involving these parties and this issue which have not been shown to be in error, the principle of stare decisis is

applicable; the conclusion must be that there has been no violation of the Agreement in this case.

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 31st day of August 1977.

