

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25960
Docket Number MS-26035

Charlotte Gold, Referee

PARTIES TO DISPUTE: (J. C. Spinelli
(
(Norfolk and Western Railway Company
(formerly Akron, Canton & Youngstown Railroad)

STATEMENT OF CLAIM:

"(a) The Akron, Canton & Youngstown Railroad Company (hereinafter referred to as 'the Carrier' or 'AC&Y') violated its Train Dispatchers' schedule working conditions Agreement, including Articles 1(a), 1(b)(4), 1(c), 1(g) and 4(h) thereof, when it required, permitted and/or delegated to persons not within the scope of said Agreement, performance of work previously performed by Train Dispatchers, in calling Section men to pick up the crew off train AC-03 at Carey, at or about 12:30 A.M. on January 5, 1981 instead of calling the senior extra Train Dispatcher to perform such work.

(b) Because of said violation, the Carrier shall now compensate Claimant F. P. Garritano one (1) day's compensation at the rate applicable to Assistant Chief-Trick Train Dispatchers, as the senior extra Train Dispatcher available at the time stated in paragraph (a) above."

OPINION OF BOARD: On January 5, 1981, a Clerk was instructed to call a Section Man to transport a Train Crew to their hotel in Carey, Ohio. Petitioner believes that by so doing, Carrier violated its Train Dispatchers Agreement and the Memorandum of Agreement dated October 29, 1974, when it allowed a person not within the scope of said Agreements to do work that Petitioner maintains was performed by Train Dispatchers.

Upon a complete review of the record, this Board finds this case to be on all fours with that in Third Division Award No. 25959. Based upon our reasoning there, this Claim shall be dismissed.

FINDINGS: That the Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee 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

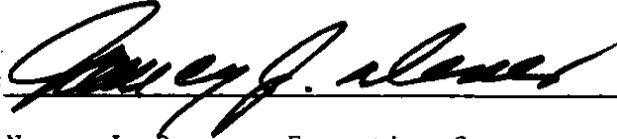
That the Agreement was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in dark ink, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of March 1986.