

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26004
Docket Number CL-25277

Robert W. McAllister, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (
(Washington Terminal Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9792) that:

(a) The Carrier violated the Rules Agreement, particularly Article 1
- SCOPE when, on the dates listed hereafter Carrier permitted other than
employees covered by the Agreement to deliver train orders and/or prepare
Clearance Forms A for trains listed. (81-10, Aug. 9 through Aug. 28, 1981).

(b) The Carrier violated the Rules Agreement, particularly Article 1
- SCOPE when, on the dates listed hereafter Carrier permitted other than
employees covered by the Agreement to clear trains and/or pick up orders at "K"
Tower. (81-10, Aug. 29) (81-14) (81-16) (81-17)

(c) The Carrier violated the Rules Agreement, particularly Article 1
- SCOPE when, on the dates listed hereafter Carrier permitted other than
employees covered by the Agreement to reproduce orders. (81-11) (81-15) (81-18)
(81-19)

(d) Claimants, named hereafter, be allowed one day's pay pro rata,
for each violation listed. (Employees' Exhibit "C")

(e) Claim is made in accordance with Article 19(a)(1) and 3(f)."

OPINION OF BOARD: This dispute involves seven Claimants and 404 asserted Rule
violations occurring between August 9, 1981, and continuing
through September 17, 1981. All seven Claimants are Towermen at "K" Tower,
Washington, D. C. The charged violations involved non-agreement employees
delivering train orders and preparing clearance Form A. On July 22, 1981, the
Carrier abolished all ten Traffic Chief and Crew Dispatch positions. Seven
Chief and/or Crew Dispatcher positions were re-established.

The numerous claims charge that the Carrier violated Amtrak Operating
Rule 210 and 211 and the Scope provisions of the Controlling Labor Agreement.
After initially denying the Claims, the Carrier contended the Claims were
excessive in that the work involved took no more than a minute to perform.
After a conference held on February 8, 1982, Carrier, reacting to the Organi-
zation's requested further consideration of the Claims, again denied the
Claims on March 31, 1982. In that letter, the Carrier pointed out that its
employees are not regulated by Amtrak Operating Rules. Notwithstanding, the
Carrier stated the transfer of three employees out of the department left it
short handed, and management, as a convenience to the Train Directors,
delivered the train orders to the Conductors to effectuate a smooth operation
until a Xerox machine could be installed in "K" Tower and Conductors sign-up

time had been extended by Amtrak. This fifteen minute extension became effective on August 28, 1981, and allowed the Conductors to pick up their orders from the Towers rather than having management representatives deliver them to train side. The record does not support a finding that picking up train orders from the Towers is an Agreement violation. Accordingly, the Claims citing a Rule violation on or after August 28, 1981, have no merit.

Notwithstanding the Carrier's other arguments of defense, it has effectively admitted violation of the Scope provisions of the Controlling Agreement. Whether of a minute duration or not, the violations are numerous and must be addressed. We agree with the Carrier that the Claim of one day's pay at the pro rata rate is excessive. For example, Claimant Purcell lists 266 violations on 14 days. If accepted, this would mean that on Sunday, August 9, 1981, he would receive an Award of 12 days pay for the cited violations. Without contradiction, each single violation is of a very short duration estimated by the Carrier to amount to one minute's time. In consideration of multiple violations on a given day, this Board has determined that an appropriate remedy would grant each of the seven Claimants a day's pay at the pro rata rate for each day that they claimed one or more violations occurred. The Claims citing Conductors picking up orders at "K" Tower on and after August 28, 1981, are denied. However those Claims after August 28, 1981, which involve non covered employees reproducing Train Orders will be allowed.

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

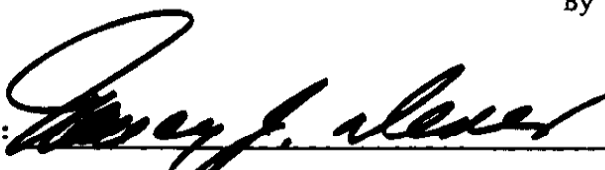
That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1986.

