

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29660
Docket No. TD-29245
93-3-90-3-133

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (American Train Dispatchers Association
(
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

"(a) CSX Transportation, Inc. ("Carrier") violated the January 9, 1988 implementing agreement between the parties when it failed to transfer and coordinate a portion of the train dispatching functions formerly performed in the Dayton, OH office (responsibility for movements between Middletown and Middletown Jct.) to the Jacksonville Centralized Train Dispatching Office and instead transferred them to the Cincinnati, OH train dispatching office effective February 15, 1989.

(b) Because of said violation, the Carrier shall now compensate each Train Dispatcher in the Cincinnati office who is required to perform any duties in connection with the Middletown-Middletown Jct. territory, one (1) days pay at the rate applicable to Trick Train Dispatchers in the Jacksonville Centralized Train Dispatching office for each such occurrence, in addition to any other compensation received for such claim dates.

(c) Joint check of Carrier's records to determine occurrences, and appropriate claimants."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On September 1, 1987, the Carrier served notice on the Organization that pursuant to Section 4(a) of the conditions for the protection of employees enunciated in New York Dock, it intended to transfer and coordinate train dispatching functions throughout the system into a single centralized operation headquartered in Jacksonville, Florida. On January 9, 1988, the parties entered into an implementing agreement. This claim was filed on March 17, 1989, asserting the Carrier violated the January 9, 1988 agreement. Subsequently, the Organization relied upon Section 4(d) of the Protective Agreement included in its agreement claiming that it is the only agreement covering the transfer of work.

The Organization argues the Carrier's September 1, 1987, notice clearly indicates the Carrier intended to transfer all train dispatching functions to the Jacksonville office with no exceptions. This contention overlooks the provisions of item 8 of the agreement reached on January 9, 1988.

Notwithstanding, this Board is initially faced with the question of whether it has jurisdiction in this matter. Clearly, analysis of the January 9, 1988, implementing agreement discloses the parties specifically intended to incorporate by reference the protective conditions of New York Dock. Third Division Award 29317 involving the same parties and a like question of jurisdiction states in pertinent part that:

"The New York Dock conditions provide for a specific mechanism for the resolution of disputes, namely Article 1, Section II."

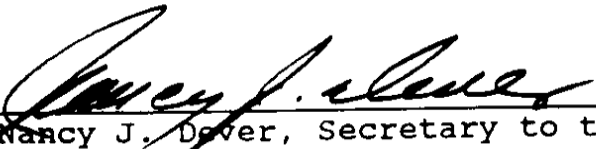
This Board concurs with the findings in Award 29317 and, likewise, holds that we lack jurisdiction to resolve disputes which are governed by New York Dock. See also Award No. 1, Special Board of Adjustment No. 157 involving the same parties. The above findings require this case be dismissed for lack of jurisdiction.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover, Secretary to the Board

Dated at Chicago, Illinois, this 7th day of June, 1993.