

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

(American Train Dispatchers Association  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.  
(formerly The Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

#1 - CLAIM OF C. D. CHAPMAN, 10/1/88, ET SEQ., FILE 10-(89-4)

Claim of C. D. Chapman for \$172.00 per day rate of pay - required by Carrier to perform Asst. Chief Disprs duties, call Soo Line trains, Indiana full crew report, use CRT for inputing delays, etc., locomotive report, Soo Line car count report, etc. daily, retroactive to 10/1/88 on a continuing basis.

#2 - CLAIM OF G. L. SMITH, 10/3/88, ET SEQ., FILE 10-(89-2)

Claim of G. L. Smith for \$172.00 per day rate of pay - required by carrier to perform Assistant Chief Train Dispr's work daily, retroactive to 10/3/88 on a continuing basis.

#3 - CLAIM OF D. D. GOETZKA, 10/8/88, ET SEQ., FILE 10-(89-3)

Claim of D. D. Goetzka for \$172.00 per day rate of pay required by Carrier to perform Asst. Chief Train Disprs work daily, retroactive to 10/8/88 on a continuing basis."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

The three claims involved in this matter all deal with Carrier's announced intention of transferring all train dispatcher functions performed in its Lavonia, Michigan office to the centralized office to be located in Jacksonville, Florida. The changes encompassing that move were dealt with in an implementing Agreement entered into on January 8, 1988. It is that Agreement only which is cited by Petitioner as the controlling understanding.

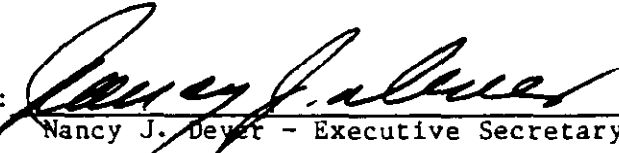
An examination of the January 8, 1988 Agreement reveals that it incorporates specifically the protective conditions set forth in the New York Dock Conditions; moreover, the implementing Agreement itself was entered into pursuant to the rulings of the Interstate Commerce Commission in various Finance Dockets which incorporated the New York Dock conditions. The New York Dock Conditions provide for a specific mechanism for the resolution of disputes, namely Article I, Section 11. As this Board has held in the past (see for example Fourth Division Awards 4219 and 4293) we lack jurisdiction to resolve disputes arising from the New York Dock conditions. Also in point is Award 1 of Special Board of Adjustment No. 1057, involving the same parties. In this dispute the jurisdictional question is even more evident since the sole Agreement relied upon was the implementing Agreement including New York Dock Conditions. Accordingly, the dispute herein must be dismissed.

A W A R D

Claims dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.