

Referee Robert M. O'Brien

PARTIES Railroad Yardmasters of America
TO
DISPUTE: Detroit Terminal Railroad

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:

The reprimand be rescinded and the personal record of Yardmaster R. Laesser be cleared of all charges that were assessed following investigation held on May 24, 1973.

OPINION OF BOARD: Following a hearing held on May 24, 1973, claimant's personal record was assessed with a reprimand. He was charged with violation of Operating Rules 802(a) and 802 (b) for failure to properly supervise activities at West Warren Yard with the result that a car loaded with auto parts was not delivered to the C&ORR with the rest of the delivery to the interchange. Carrier contends that this error caused it to incur unnecessary and additional expense when it was required to make a special run to the C&ORR with the one car.

The record reveals that on the claim date claimant issued instructions to Conductor Borthwick to pick up 9 C&O cars that were on East 7, double to East 1, get his air on 35 cars for the C&O and deliver to the delivery point. However, Conductor Borthwick came out of track #7 with only 8 cars not 9 as instructed.

We are not persuaded that Carrier has sustained the burden imposed upon it by establishing claimant's responsibility for the Conductor's failure to pick up 9 cars as instructed. When claimant issued the instructions, it was incumbent on the Conductor to see that they were executed. It is uncontroverted that subsequent to issuing these instructions claimant returned to his duties as a yardmaster. If the unnecessary expense and delay incurred by Carrier was the result of an employee's dereliction of duty, that responsibility lies with the Conductor and not with the claimant.

FINDINGS:

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

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

The parties to said dispute were given due notice of hearing thereon.

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of the Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois this 5th Day of March 1974.