

Referee Dana E. Eischen

PARTIES Railroad Yardmasters of America  
TO  
DISPUTE: Norfolk and Western Railway Company

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

Claim 1 day at yardmaster rate account of being required to perform service outside of assigned territory. On 7/31/75 I was required to instruct N-3 job as to work to do at Maumee. According to notice dated March 7, 1975 signed by Mr. W. E. Gibler, Asst. Supt. I am not required to perform service beyond Wanick Junction. Claim submitted in behalf of Yardmaster R. J. Duke.

OPINION OF BOARD: Claimant at the time this dispute arose was employed as a third trick relief Yardmaster, Homestead Yard. On August 3, 1975, Claimant presented the following claim:

"Claim 1 day at yardmaster rate account of being required to perform service outside of assigned territory. On 7/31/75 I was required to instruct N-3 job as to work to do at Maumee. According to notice dated March 7, 1975 signed by Mr. W. E. Gibler Asst. Supt. I am not required to perform service beyond Wanick Junction."

Thereafter, the claim was denied by the Terminal Trainmaster by letter dated September 8, 1975 which quoted verbatim the claim supra and concluded as follows: "The above claim is declined account not supported by the rules of your current working agreement."

The Organization at no time has cited a rule in support of the claim for additional compensation. We note particularly that neither Rule 2 (Basic Day and Overtime) nor Rule 7 (Seniority) are cited and there is no allegation anywhere in the record that they were violated because Claimant allegedly performed work "outside of assigned territory." As nearly as we can determine the merits of the claim are premised upon an allegation that Claimant's instruction to the N-3 job at Maumee violated a Trainmaster Notice dated March 16, 1974. It should be patent that such a unilateral Carrier operating instructions does not rise to contractual dignity and is not cognizable under the grievance machinery if transgressed (assuming arguendo that it was since no evidence but bare assertions

are offered to prove that it was). The several Divisions of this Board have all refused to entertain claims supported solely by such Carrier operating rules and without any foundation in the controlling schedule agreement. See Awards 11 802, 13 390, 18 345 and 22 234 (First); Award 4768 (Second); Awards 7770, 8502, 11908, 12205, 13725, 13871 - 873 (Third); Awards 2612 and 3410 (Fourth). The last cited Award is directly on point with the instant case relative to nonsupport by a rule agreement of the merits of the Claim.

Thus the claim comes to us solely on the procedural issue of the Organization's assertion that Carrier's denial was inadequate under Article V(a) of the National Agreement dated August 12, 1954. We have examined the disputed denials, the cited agreement provisions and the many Awards of the various Divisions on this subject. We are led ineluctably to the conclusion that the Organization's position herein is unfounded. The denial complained of informed the Organization that no rule of the current working Agreement supported it. Not only was this true but it constituted a general denial of an allegation couched in nonspecific terms which has been upheld in numerous Awards of this Board to be sufficient for purposes of Article V, 1(a) of the National Agreement of August 12, 1954. See Awards 11208, 15413, 14864 et al of the Third Division and our own Award 2301. There being no support for the claim either in the schedule agreement nor the National Agreement, it must be denied.

#### 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.

Form 1

-3-

Award No. 3426  
Docket No. 3411

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

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Fourth Division

ATTEST: Executive Secretary  
National Railroad Adjustment Board

By:   
Assistant Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February 1977