

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISIONAward Number 4421
Docket Number 4412

Referee Eckehard Muessig

PARTIES Railroad Yardmasters of America
TO
DISPUTE: Consolidated Rail Corporation

STATEMENT
OF CLAIM:

Claim for one day at the punitive rate in addition to all other earnings on behalf of V. V. Mellott for January 22, 23, 24, 28, 29, 30 and 31, 1982; and, R. Brandon for January 26, 1982, account required to give a yard status report of Canton Yard to the Assistant Chief Train Dispatcher at Youngstown, Ohio. (Cases RYA-182-82, RYA-185-82, RYA-189-82, RYA-212-82, RYA-226-82, RYA-230-82, RYA-234-82, RYA-239-82.)

OPINION OF BOARD: The two Claimants in this dispute are Yardmasters who are regularly assigned territory in Canton, Ohio. Prior to going off duty on the dates specified, the Claimants, who were on the second shift, were required "to call the Assistant Chief Train Dispatcher at Youngstown, Ohio and give him a Yard Status Report", i.e., a report as to which tracks would be available for pick-ups or set-offs.

The Organization chiefly relies upon the parties' "Joint Statement of Agreed Upon Facts" dated April 30, 1984, which, in pertinent part, read: "At the end of his tour of duty at 11:00 P.M. on * * * Claimant reported to his immediate supervisor the status of the yard". The Organization claims that this agreed upon fact supports its contention that the Claimant reported the status of the Yard to the Trainmaster (the immediate Supervisor) who then proceeded to furnish the information to the Dispatchers at Youngstown, Ohio.

The Carrier maintains that its employee who wrote and signed the "Agreed Upon Facts" statement "was under the misconception that when the Trainmaster was not physically on duty, the Chief Train Dispatcher and/or the Assistant Chief Train Dispatcher was the immediate supervisor of the Trainmaster". The Carrier maintains that this explains why the term "immediate supervisor" was used in the Statement of Fact.

The weight of the record lends credence to the Carrier's argument in this respect. For example, in the same document containing "The Statement of Agreed Upon Facts", the Carrier states that "the Claimant prepared his yard status report and gave that report to the Assistant Chief Train Dispatcher". Moreover, the initial Claims all read "for giving this information to [name] who works as an Assistant Chief Train Dispatcher * * *". And, lastly, the Claim before the Board reads, in pertinent part, "Account required to give a yard status report of Canton Yard to the Assistant Chief Train Dispatcher at Youngstown, Ohio".

As a threshold issue, the Board notes that the instant Claims deal solely with giving "a yard status report of Canton Yard to the Assistant Chief Train Dispatcher at Youngstown, Ohio". The Organization skillfully has argued, both in its submissions and before the Board, that the information furnished in the status report was used by other employees to perform Yardmaster's work and, therefore, was a violation of its Scope Rule. The record reveals that such an assertion is a significant expansion of the Claim that was not used in the Notice of Intent and the Statement of Claim.

Accordingly, while the Board normally does not set aside Claims that are of such importance to both parties on essentially procedural grounds, the issue, as framed by the Claimant, is whether the Carrier has a right to require a Yard Status Report to be given to the Train Dispatcher. Solely on this question, and in recognition that the Board has no power to go beyond the issue set forth in the Statement of Claim and under the facts and circumstances of this case, a violation of the Agreement has not occurred.

FINDINGS:

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

The Carrier and the 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.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Dever
Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1986.