

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4866

UNITED TRANSPORTATION UNION - YARDMASTERS DIVISION

and

THE LONG ISLAND RAIL ROAD COMPANY

AWARD Nos. 1 and 2  
Case Nos. YM-02-89 and YM-03-89

STATEMENT OF CLAIMS

Allow one day's pay, at the time and one-half Yardmaster's rate of pay, for all Yardmasters working at Babylon Yard, from December 21, 1988, until Yardmasters are no longer required to make Automatic Speed Control Test. This test is a violation of the Yardmaster's Scope Rule.

Allow one day's pay, at the time and one-half Yardmaster's rate of pay, for all Yardmasters at West Side Yard and Babylon Yard, for being ordered to keep the written record, Verifications Forms, for the Automatic Speed Control Tests, from December 21, 1988 until Yardmasters are no longer required to keep these records. This record keeping is a violation of the Yardmaster's Scope Rule.

F I N D I N G S

These claims concern the implementation of a Federal Railroad Administration directive, effective December 21, 1988, concerning the Automatic Train Control: Departure Testing ("ATC"), referring in particular to the new requirement to maintain records at a location away from the locomotive being

tested. ATC tests had been performed prior to this date, without the requirement of maintenance of records specified in the directive.

Case No. YM-02-89 concerns the instruction given by the Carrier to Yardmasters at the Babylon Yard to activate the ATC test for the locomotive engineer by pressing a button on a panel installed in the Yardmaster's office. Case No. YM-03-89 concerns the instruction by the Carrier to Yardmasters at the Babylon and East Side Yards to initiate and continue keeping the necessary records of the tests.

As to both of these tasks, the Organization argues that they are improperly assigned to Yardmasters. The Organization cites the Yardmasters' Scope Rule, which reads in part as follows:

Yardmasters have supervision over employees directly engaged in switching, blocking, classifying and providing for the movement of trains and engines and the distribution of cars therein, and for coordinating the Yardmaster's duties with employees of other departments.

The Organization points out that this Rule confines Yardmasters to supervisory tasks. According to the Organization, this "should not be taken by the Carrier to mean that Yardmasters can perform the work that has been done by employees

of another craft". The Organization cites the conclusions reached in three Awards as supportive of its position. Third Division Award No. 11072 (Dorsey) states:

If the Carrier remained free to assign, unilaterally the work to whosoever it chooses, crossing craft and class lines, the over twenty (20) Rules in the Agreement, here being interpreted and applied, would be for naught in that they would have meaning only at the whim of Carrier.

Fourth Division Award No. 2968 (O'Brien) holds as follows:

We agree with the Organization's contention that during this period Carrier has required claimants to perform duties outside the scope of their collective bargaining agreement. The work performed by yardmasters, prior to the yard being placed on full automatic operation, was car retarder work which has on this property been the work of trainmen or switchmen and cannot be considered incidental to the duties of a yardmaster. It is immaterial that the work consisted of moving a lever or pressing a button on a console, as Carrier contends, as this Board considers the kind and character of the work controlling rather than the method of performing it. And in the present claim, the work performed during the claim period was clearly car retarder work although admittedly it was performed in the tower and not physically in the yard.

Public Law Board No. 2719, Award No. 34 (Sickles) concludes as follows:

There are conflicting Awards concerning Carrier's right to assign duties to individuals in Carriers' employ. However, this Board is persuaded by the line of Awards which have held that an assignment of duties

must be reasonably related to the craft of claiming Employee.

The two tasks (activating the ATC test and recording the results) must be considered separately. As to the record-keeping, this is a new task, not previously performed. On this basis the Board finds, as argued by the Carrier, that this work cannot be identified as belonging to any particular class or craft. The Board finds it not unreasonable to assign this work to Yardmasters.

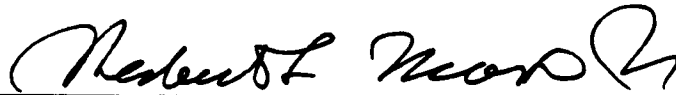
As to "pushing the button" to activate the test, the Carrier has demonstrated that this has been done in the past by a variety of management-level employees and by employees in other crafts. As pointed out by the Carrier, the ATC test itself is performed by the locomotive engineer and not by "the employee pushing the button". In contrast to the finding in Public Law Board No. 2719, cited above, the Board finds that the button-pushing assignment is sufficiently "reasonably related" to the Yardmaster's assignments. In addition, the work is not identified as within the exclusive scope of any other craft.

There is one further argument to be reviewed. The Organization points to an on-property settlement in favor of an Assistant Stationmaster because he was "erroneously instructed

that the application of ASC seals was within his job scope".  
The Board is not advised whether the "application of ASC  
seals" is identical with the "button pushing" here under review.  
Nor does a conclusion that the work is not "reasonably related"  
to the work of an Assistant Stationmaster necessarily apply with  
equal force in reference to work of a Yardmaster, who completes  
the task while in his office.

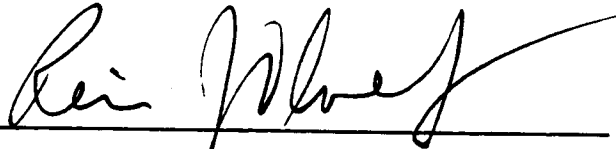
A W A R D

Claims denied.



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HERBERT L. MARX, JR., Chairman and Neutral Member



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REIN J. OLVET, Carrier Member



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P. G. TRAMONTANO, Employee Member

NEW YORK, NY

DATED: 9/18/90