

PUBLIC LAW BOARD NO. 2278

Award No. 3

Case No. 3

UTU File 4.63

4.64

Carrier File SW-27.77.22

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Parties United Transportation Union (S)

to and

Dispute Kansas City Terminal Railway Company

Statement of Claim Claim is made for one day's pay at applicable rate on behalf of the senior available switchmen who stood first out to work each date September 5 and 29, 1977, account Mill Street Yardmaster F. Holtz performing switchmen's work.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated August 9, 1979, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

The Employees allege that on September 5, 1977, Yardmaster Holtz threw the 319 crossover switches lining movement for the Long Hill crew with a cut of cars at 2:00 PM and at 2:05 PM he threw the 321 crossover switches for their return movement. The switch crew consisting of Mssrs. Blickhan, Hopper and Kovack witnessed same. They also indicated that they had warned said Yardmaster in the past about throwing switches for crew movements.

Again, on September 29, at 8:10 AM, a switch crew, consisting

of Foreman N. Serfass with helpers V. Hare and S. Baldwin (committee vice chairman), with engine 72 entered the Mill Street Yard. Said crew was instructed, by radio, to go to Track 1015 and tie onto a drag. The crew tied on to the drag and stretched same. Thereafter, helper Baldwin started to walk the drag and concurrent therewith Yardmaster Holtz, via a handset radio, instructed the crew to shove the drag west, which was done. Said Yardmaster stated:

"Two car lengths to go...that is good stop there and run the air in your drag."

The Employees contend that they have frequently complained about this particular yardmaster throwing switches, kicking cars, pulling pins, using radio and hand signals in conjunction with the Superintendent to get a drag together and spotting same for an air test and specified the dates thereof. Two local settlements paying claims as herein and Awards in support of their positions were cited.

Carrier argued that Yardmaster Holtz asserted that on September 5, he had been outside walking in the yards and had thrown several of the switches which had been reported as being hard to throw.

There appears to be a dispute in the facts. However, the record points against the same Yardmaster and the Employees assertions remain undenied. The work complained of on those dates, which are not the dates herein incidentally, would clearly indicate that the Yardmaster performed work which otherwise should have been performed by a member of the yard


crew. If, as is stated by the Employees, then the Yardmaster was improperly injecting himself into work reserved to the bargaining unit. If to the contrary, there would have been no basis of claim.

The Board concludes that an unhealthy and unsafe environment is created by this Yardmaster despite how well intentioned his efforts might be to assist in expediting work which would otherwise be performed by the yard crews. Here, no extra crew member need have been called to perform the work complained of. To assure contract enforcement, the claim will be sustained.

Award            Claim sustained  
Order            Carrier is directed to make this Award effective within thirty  
                    (30) days of date of issuance shown below.

  
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E. A. Derby, Employee Member

  
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U. B. Llewellyn, Carrier Member

  
\_\_\_\_\_  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued at Wilmington, Delaware, January 11, 1981.