

Award No. 2745
Docket No. TD-2797

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Ernest M. Tipton, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION
SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that the Southern Railway Company violated Article II (a) of the Train Dispatchers' Agreement effective September 1, 1929, and Rules 3-(a) and 3-(b) of the Mediation Agreement dated March 14, 1942, (made a part of the Agreement), when it failed and refused to pay Dispatcher C. S. McLarn, Birmingham, Alabama office, A. G. S. Division, a minimum day of eight (8) hours at rate and one-half for service performed on the following days, which were his regularly assigned rest days: November 14, 1943, February 6 and 20, 1944.

EMPLOYEES' STATEMENT OF FACTS: Mr. C. S. McLarn is a regularly assigned dispatcher working first trick in the Birmingham office, A. G. S. Division, with hours 7:00 A. M. to 3:00 P. M. with rest day on Saturday.

His rest days on the three days in question were due to extend from 7:00 A. M. Friday until 7:00 A. M. Sunday (Rule 3-(b)). At approximately 9:00 P. M. on Saturday, November 13, 1943, February 5 and 19, 1944, he was advised and instructed to report for duty at 3:00 A. M. the following morning, which was four (4) hours before the expiration of his rest day periods. He reported as instructed and worked on his rest days from 3:00 A. M. to 7:00 A. M. He then worked his regular trick from 7:00 A. M. to 3:00 P. M. Sunday.

The carrier only paid him four (4) hours at rate and one-half for the service performed on each of his rest days.

This claim is for a minimum day, eight (8) hours, at rate and one-half for the service performed on each of the three rest days as required by Articles II (a) and VI of the agreement effective September 1, 1929 and Rules 3-(a) and 3-(b) of the Mediation Agreement dated March 14, 1942. As Mr. McLarn has only been paid four (4) hours at rate and one-half for each date, he is now entitled to four (4) hours additional pay at rate and one-half.

Separate claims for each date were filed with the carrier, but as the principal involved is the same, and the hours worked on each of the three days are the same, we have combined the three claims into one in order to save paper and the time of all concerned.

The claims have been handled in the usual manner up to and including the highest officer designated by the carrier for that purpose, whose letters denying the claims are shown as Exhibit TD-1.

(2) Your respondent shows that the rules cited do not support the claim. Rule 3 (a) of the Mediation Agreement provides for payment at rate of time and one-half for service performed on a rest day. It does not require a minimum payment of eight (8) hours at time and one-half rate for any service performed on the rest day. Obviously, as stated in Award 2622, Rule 3 (b) has no bearing on the situation, presented by this claim, and claim, therefore, should be denied.

(3) Your respondent shows that under the provisions of Rule 3 (a) of the Mediation Agreement of March 14, 1942, as well as Rules 2 (a) and 2 (b) of that agreement, Mr. McLarn was properly paid for service performed beginning four (4) hours in advance of his regular tour of duty on each of the dates in the claim, and, therefore, the claim should be denied.

For the reasons stated, this claim not having been properly progressed, in the property, it should be dismissed; on the merits it should be denied.

OPINION OF BOARD: This is a companion claim to Docket No. TD-2796, Award No. 2744, and for the reasons assigned in the opinion of that Award, the claim should be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 13th day of December, 1944.