

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Henry J. Tilford, Referee)

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

MISSOURI-KANSAS-TEXAS LINES

STATEMENT OF CLAIM: (1) Claim of the American Train Dispatchers Association that the Missouri-Kansas-Texas Lines violated Article 3 of the Dispatchers' Agreement in effect on this property, dated June 19, 1937, as amended by Mediation Agreement (Case A-1122-A) dated March 14, 1942, when it failed and refused to pay Dispatcher C. W. Wright, Denison, Texas, office at rate of time and one-half Chief Dispatcher's rate for service performed on two of his regularly assigned rest days, January 16 and 23, 1944, relieving position of chief dispatcher.

(2) Dispatcher Wright shall now be paid the difference between pro rata which he was paid and rate and one-half which he is entitled to under the provisions of Article III.

EMPLOYES' STATEMENT OF FACTS: Mr. C. W. Wright at the time this claim arose was a regularly assigned dispatcher working first trick, Denison office, with hours 8:00 A. M. to 4:00 P. M., with one rest day (Sunday) each week.

On two consecutive Sundays, January 16 and 23, 1944, (two regularly assigned rest days) Mr. Wright was instructed and required to work the chief dispatcher's position. The carrier paid him the pro rata rate of the chief dispatcher position for the two days' service performed on that position but failed and refused to pay him at rate and one-half for service performed on the rest days (Sunday, January 16 and 23) assigned to his regularly assigned position as provided in Article III of the Dispatchers' Agreement dated June 19, 1937, as amended by Mediation Agreement (Case A-1122-A), dated March 14, 1942.

This claim has been handled up to and including the highest officer designated by the carrier for that purpose, whose letter denying the claim is shown as Exhibit TD-1.

POSITION OF EMPLOYES: Article III (a) of Dispatchers' Agreement, dated June 19, 1937, has been amended by Item 3-(a) of Mediation Agreement dated March 14, 1942, which provides:

"3 (a) Effective April 1, 1942, each regularly assigned train dispatcher (and extra train dispatchers who perform six consecutive days' dispatching service) will be entitled and required to take one regularly assigned day off per week as a rest day, except when unavoidable emergency prevents furnishing relief. A regularly assigned train dispatcher required to perform service on the rest day assigned to his position will be paid at rate of time and one-half.

Chief Dispatcher position, which position it is clearly and unmistakably established is not included in the scope of or subject to any provisions of the working agreement between this petitioner and the railroad.

Except as herein expressly admitted, the carrier denies the allegations of the employees and respectfully requests that the petitioner be placed on strict proof of his allegations.

The carrier respectfully requests that the Board deny the claim.

OPINION OF BOARD: The facts in this case and the claim arising therefrom are in all respects similar to those presented in Docket TD-2871, Award 2905.

It follows that the decision is controlled by the Award cited.

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 employees 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 violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 4th day of May, 1945.