

Award No. 5004

Docket No. TD-4977

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

INTERNATIONAL-GREAT NORTHERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of American Train Dispatchers Association for and in behalf of H. I. Crist, Train Dispatcher, International-Great Northern Railroad Company, that:

(1) The Carrier failed to comply with the provisions of the Agreement covering the relief of Chief Train Dispatchers (titled Division Trainmaster on this property) when on April 10, 1949 it allowed Chief Dispatcher G. G. Fretwell at San Antonio, Texas to work his weekly rest day thereby depriving Dispatcher H. I. Crist of a day's work.

(2) Dispatcher H. I. Crist shall now be compensated for one day's work at the Chief Dispatcher's (Division Trainmaster's) rate of pay.

EMPLOYEES' STATEMENT OF FACTS: On April 10, 1949, Chief Train Dispatcher (now titled Division Trainmaster on this property) was allowed by the Carrier to work on his regularly assigned weekly rest day although H. I. Crist an extra dispatcher was available to effect relief in accordance with the provisions of hereinafter quoted letter of understanding, dated May 1, 1948.

"Palestine, Texas, May 1, 1948

"Mr. G. P. Sowell,
General Chairman ATDA,
1404 N. Queen Street,
Palestine, Texas

Dear Sir:

"This is to advise that it will be our policy to continue our present practice of requiring Chief Train Dispatchers (now titled Division Trainmasters on this property and hereinafter referred to as Chief Train Dispatchers) to take one regularly assigned day off per week, except when unavoidable requirements of the service require them to be on duty.

"In affording Chief Train Dispatchers relief days and vacations, or when such Chief Train Dispatchers are otherwise temporarily absent for one or more days, positions shall be filled from those covered by your Agreement, but the Carrier is privileged, if in its judgment necessary, to require that the position be filled by the dispatcher in that office whom it considers best qualified; qualifications being equal, the senior man will be given the preference. The question

Company alike" would have been served by using a regularly assigned telegrapher, whose experience and ability in dispatching work were limited, on his day off, or the regular occupant of the Chief Dispatcher position, whose experience and ability were well and long established, on his day off. On this basis alone the claim should be denied.

When consideration is given to all the facts and circumstances surrounding this case it is clearly evident that there is no justification, merit or basis for the Employees' contention that Mr. Crist should have been used on the Chief Dispatcher position Sunday, April 10, 1949. Therefore, the contention of the Employees should be dismissed and the accompanying claim accordingly denied.

(Exhibit not reproduced).

OPINION OF BOARD: The claimant was an extra train dispatcher, having been promoted March 14, 1948. He was working as first trick telegrapher at Wetmore, Monday through Saturday, with Sunday his rest day. Under a letter agreement with the Organization dated May 1, 1948, a policy was set up to continue the practice of requiring chief train dispatchers to take one regularly assigned day off per week, except when unavoidable requirements of the service require them to be on duty.

The facts in this claim are similar to part of the facts in Award No. 5002, and the main defense of the Carrier is the same, that the claimant was not qualified to work the chief train dispatcher's position. This may be so but under the letter agreement when the Carrier allowed the chief dispatcher to work his rest day and did not provide for some qualified employe under the Dispatchers' Agreement to work the rest day, it deprived the claimant, an extra train dispatcher, of a day's work and made it impossible for him to protect the work under Agreement as he is charged to do or lose his seniority, as he would have been used if a qualified dispatcher had worked the rest day of the chief dispatcher. The Carrier violated the letter agreement of May 1, 1948, and the monetary part of this claim is remanded back to the parties for adjustment to ascertain what amount of money is due claimant as an extra train dispatcher for the loss of a day's pay due to the violation.

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

The Carrier violated the terms of the Agreement.

AWARD

Claim sustained in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 4th day of August, 1950.