

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Jay S. Parker, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: (Claim "E") Claim of the American Train Dispatchers Association that:

(1) The Missouri Pacific Railroad Company violated the intent of Article 1—Scope of its Agreement with the American Train Dispatchers Association, when beginning on or about September 10, 1949, this Carrier removed from employees who are subject to that Agreement, and temporarily transferred to employees of another railroad who are not subject to that Agreement, the work of directing and supervising the movement of trains of the Midland Valley Railroad which were then and continued to be operated over that part of the Missouri Pacific Railroad which was and is included within the dispatching territory in which it was and is now the duty of the below listed Claimants to direct and supervise the movement of all trains, and

(2) The Missouri Pacific Railroad Company shall now compensate the below listed claimants, in the amounts shown, for time lost by them by reason thereof.

| Claimants | Location | No. of Days | Total Amount |
|----------------|-------------------|-------------|-----------------------|
| D. B. Davidson | Coffeyville, Kan. | 1 | \$ 19.31 ² |
| G. E. Moore | Coffeyville, Kan. | 8 | 154.48 ² |
| A. W. Rees | Coffeyville, Kan. | 5 | 96.55 ² |
| A. E. Loyd | Coffeyville, Kan. | 30 | 579.30 ¹ |

² Denotes that this includes compensation due under CLAIM-A.

¹ Denotes that this does not include compensation under CLAIM-A.

EMPLOYES' STATEMENT OF FACTS: An agreement on rules governing rates of pay, hours of service and working conditions of train dispatchers, between the parties to this dispute, was in effect at the time this dispute arose. A copy thereof is on file with this Board and is, by this reference, made a part of this submission as though fully incorporated herein. The scope of said agreement pertinent to the instant dispute reads as follows:

"Article 1 (a) Scope—(Effective January 1, 1948)

This agreement shall govern the hours of service and working conditions of train dispatchers. The term 'train dispatcher,' as hereinafter used, shall include Assistant Chief, trick, relief and extra train

the Organization also realizes that it failed to have dispatchers file claims for the days and amounts shown in the Statement of Claim within the time limitation rule of the agreement—Article 8, paragraph (f). In other words, the Dispatchers' Organization is assuming that it has the right to present claims to this Board by making change in days, amounts and bases of claims, thus defeating the real intent and purpose and plain language of Article 8, paragraph (f), of the agreement. The Organization does not have this right and it should not be granted by this Board.

The Carrier believes that in all fairness to the railroad the Board should refuse to recognize this claim as a claim which is properly before the Board, and, further, that if the claim is to be recognized and handled by the Board the American Train Dispatchers Association should be required to state in detail the basis of the claim and its reason for its failure to file claims in the proper manner and progress them through the regular channels, and that the Carrier be granted ample time in which to prepare a submission or statement in connection therewith.

(Exhibit not reproduced.)

OPINION OF BOARD: Based on what is said and held in Award No. 5445, also in our decisions in Awards Nos. 5446, 5447, and 5448, which, from the standpoint of facts, issues and decisive principles, are not distinguishable, we hold the claim presented in this docket should be dismissed because it was not presented to the Board in conformity with existing requirements of the Railway Labor Act. It is so ordered.

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 claim should be dismissed without prejudice on grounds set forth in the foregoing awards because of the employees failure to present this and other claims, common to a single dispute, in conformity with requirements of the Railway Labor Act.

AWARD

Claim dismissed without prejudice in accord with the Opinion and Findings on grounds set forth in the Awards cited and referred to in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 7th day of September, 1951.