

Award No. 6271

Docket No. TD-6273

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

**THE ATCHISON, TOPEKA AND SANTE FE RAILWAY
COMPANY
— WESTERN LINES —**

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that:

(a) That part of The Santa Fe Railway System, known as The Panhandle and Santa Fe Railway Company (Western Lines-Southern District) hereinafter called "the Carrier," has failed and continues to fail to comply with the intent of the provisions of Article II, Section 10-c, and Article II, Section 10-a, of the existing Agreement between the parties, by declining to bulletin train dispatcher assignments in Carrier's Slaton, Texas, train dispatching office for seniority choice when, by reason of certain installations of Centralized Traffic Control signalling facilities, the working conditions of train dispatcher assignments in that office were materially changed, and

(b) The Carrier shall now be required to bulletin train dispatcher assignments in the Slaton, Texas, office for seniority choice in accordance with the intent and requirement of Article II, Section 10-c of the Agreement, and

(c) The Carrier shall now be required to compensate Train Dispatchers C. D. Berry, L. M. Cole, J. C. Hutchins, W. L. Roche, R. C. Senner and W. T. Wyatt in accordance with the provisions and intent of Article II, Section 10-a, from May 3, 1951, until said train dispatcher assignments have been bulletined for seniority choice pursuant to Article II, Section 10-c of the Agreement.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement between the parties, bearing the effective date September 1, 1949. A copy thereof is on file with your Honorable Board, and by this reference the same is made a part of this submission the same as though fully set out herein.

For ready reference Article II, Section 10-c, and Article II, Section 10-a, of the Agreement, referred to in Statement of Claim, supra, are quoted in their entirety:

ARTICLE II, Section 10-c:

Where there is a material change in the territory included in a train dispatcher's assignment, the assignment shall be abolished

recent development within the organization in the hope of obtaining a revision of that rule without negotiation as required by the amended Railway Labor Act.

There was no change, either material or otherwise, made in the territory included in the train dispatchers' assignments at Slaton, Texas, either during the period of the CTC construction or following its completion and placement in service. The territories included in the train dispatchers' assignments at Slaton were exactly the same both during the construction thereof and following the completion of the CTC installation as they were prior to the start of its construction. The Employees have not, in their handling of the instant dispute on the property, ever alleged that there was any change in the territory included in the dispatchers' assignments at Slaton. They have, on the contrary, relied entirely on the contention that, since the installation of CTC changed the method of train dispatching, the assignments of the train dispatchers at Slaton should have been abolished and rebuletined or listed for seniority choice under Article II, Section 10-c of the Agreement. The Employees have submitted nothing whatever in support of that contention, whereas the Carrier has shown conclusively that the aforementioned rule is not susceptible of the meaning the Employees are attempting to place thereon. The Carrier accordingly asserts that the instant claim is entirely without merit or support under the Agreement rules cited by the Employees and should be denied in its entirety.

All that is contained herein is either known or available to the Employees and their representatives.

(Exhibits not reproduced).

OPINION OF BOARD: Involved here is a claim for compensation under Section 10-a of Article II, arising out of the alleged failure of the Respondent to comply with requirements of Section 10-c of the said Article.

During the latter part of 1950 the Carrier completed the installation of, and placed in operation Centralized Traffic Control units between Sweetwater, Texas and Slaton, Texas, and between Slaton, Texas, and Lubbock, Texas. On March 17, 1951, the Organization requested that all affected dispatcher positions be abolished and that the same be posted for bidding and reassignment under Section 10-c of Article II, which reads as follows:

"Where there is a material change in the territory included in a train dispatcher's assignment, the assignment shall be abolished and the new assignment listed for seniority choice under Article II, Section 10-a."

The Organization takes the position that the change over from a Train Order to a C.T.C. method of operation produced a change in the duties and responsibilities of the positions involved to an extent that a "material change" within the meaning of the Rule existed. It was asserted that the intended interpretation and application of the Rule, as between the parties, included not only a physical change in operations, but also the factors of (1) density of traffic (2) grades and (3) mileage, all of which are essential to a determination of the existence or non-existence of "material change".

Respondent's position in brief is that the Rule involved here is plain and without ambiguity and that it was contemplated by the Parties that the same would be invoked and effective only when there was a material change in the mileage or area of a train dispatcher's territory.

We cannot agree, that on the basis of the record here, the contentions of the Organization are meritorious. We do not believe the Rule (Section 10-c of Article II) as written, contemplates, or was intended to embrace changes in the duties and responsibilities of the position. The Rule as written has neither latent or patent ambiguities.

"Territory" as used in the Rule relates to the geographical area or mileage of an assignment.

"Material change" as used in the Rule relates to the "territory" of the assignment and not to the duties and responsibilities thereof.

It is admitted that there has been no change in either the extent or mileage of the assignments in question.

To sustain this claim would result in either the writing of a new or the amending of an existing Rule.

Such is beyond the power of this Tribunal.

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 Employes 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 Agreement has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 23rd day of July, 1953.