

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(CHESAPEAKE DISTRICT)**

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

1. The Chesapeake and Ohio Railway Company, Chesapeake District, failed and continues to fail to comply with the requirements of Section (b)-1 and Section (d) of Rule 1 of the current Agreement when it required and continues to require C. P. Neal, a trick train dispatcher, to perform duties defined in said Section (b)-1 as those properly belonging to the class of Assistant Chief Train Dispatcher and declined and continues to decline to properly classify said C. P. Neal in accordance with the requirement of Section (d) of said Rule 1 and to properly compensate him as Assistant Chief Train Dispatcher.

2. The Chesapeake and Ohio Railway Company, Chesapeake District, shall properly classify said C. P. Neal as Assistant Chief Train Dispatcher on January 5, 6, 7, 8, 9, 12, 13, 14, 15, 1952, and on each and every day subsequent to January 15, 1952, on which it has required him to perform the duties defined as Assistant Chief Train Dispatcher and shall compensate him in the amount of the difference between the daily rate applicable to trick train dispatcher and that of Assistant Chief Train Dispatcher for each of the days set forth herein and for each subsequent day on which he performed such service until it complies with the requirements of Sections (b)-1 and (d) of Rule 1 of the Agreement.

EMPLOYES' STATEMENT OF FACTS: A Schedule of Wages and General Regulations for Train Dispatchers No. 5, effective August 16, 1948, constitutes an Agreement between the Chesapeake and Ohio Railway Company (Chesapeake District), (hereinafter referred to as the Carrier) and its train dispatchers as represented by the American Train Dispatchers Association, governing working conditions and rates of pay of "dispatchers" as that term is defined in Rule 1. A copy of this Schedule of Wages and General Regulations for Train Dispatchers No. 5 and which, hereafter, will be referred to as the "Agreement", is on file with your Honorable Board and, by this reference, is made a part of this submission.

OPINION OF BOARD: This claim concerns the request of one C. P. Neal, regularly assigned third trick train dispatcher, that his position be reclassified to that of Assistant Chief Train Dispatcher, and that he be granted the difference in the wage rate of the two positions retroactive to January 5, 1952 as allegedly required by the effective agreement.

Claimant's assigned hours are 11:59 P.M. to 7:59 A.M. It is asserted that the duties performed are clearly within the scope of those delegated to and required of an Assistant Chief Train Dispatcher and which normally, as here, includes the coordination and supervision of operations.

Respondent states that all of its operations are consolidated in Rainelle; that the Claimant here performs no work or assumes no responsibilities that have not historically been performed and assumed by the third trick Train Dispatcher; and finally that the position of Assistant Chief Train Dispatcher has never existed on the property and that there is no present need for one on the Carrier's facility.

The record here discloses that all of the operations of the Respondent are centered in Rainelle. All train orders and train and train crew movements are handled there. Prior to 1949 supervision of all trick train dispatchers was performed by the Assistant Superintendent. At that time the position of Chief Train Dispatcher was established by the Respondent. The occupant of this position ordinarily works from 8 A.M. to 5 P.M. and performs the usual functions of the position, namely, supervision of trick train dispatchers, telegraphers and others in coordinating train movements and train crew assignments.

It is the alleged performance of these duties by the Claimant from 11:59 P.M. to 7:59 A.M. that form the basis of the request for a reclassification of the third trick train dispatcher position to that of Assistant Chief Train Dispatcher.

Claimant supervises no other train dispatchers, he being the only one on duty. The evidence is not conclusive that he performs any duties at this time which he had not previously so performed. Any supervisory duties performed are those which are normal to the position.

The Chief Train Dispatcher leaves written orders, generally known as a "line-up" for use by the second and third trick dispatcher. The second trick dispatcher transfers orders in writing to the third trick dispatcher.

It is the opinion of the Board that the duties performed, including the coordination of operations, are nothing more than routine and related work of the position and that the work so performed, and the responsibilities assumed in connection therewith, are no greater than those which have normally been required of the occupant of the position for a substantial period of time prior to the institution of this claim.

The end sought here is proper subject matter for collective bargaining. It cannot properly be achieved by award of this Division.

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 Employee involved in this dispute are respectively Carrier and Employee 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.