

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Donald F. McMahon, Referee

---

**PARTIES TO DISPUTE:**

AMERICAN TRAIN DISPATCHERS ASSOCIATION

CHICAGO GREAT WESTERN RAILWAY COMPANY

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

(a) The Chicago Great Western Railroad Company (hereinafter referred to as the Carrier) failed to fully comply with the intent of provisions of the existing agreements between the parties to this dispute, when the Carrier refused to pay W. J. Murphy and D. O. Porter at the higher rate of the position of Chief Train Dispatcher for the days on which they relieved the Chief Train Dispatcher prior to November 1, 1951, and

(b) The Carrier shall now pay to Claimants Murphy and Porter such amounts as represent the difference between what they received as retro-active compensation, or "backpay", and the amount each of them should have received pursuant to the revisions of the Agreement, entered into between the parties to this dispute on October 23, 1951, and concurrently with the adoption of which the Carrier also increased the monthly rate of its Chief Train Dispatcher in an exact amount (\$49.76 per month) as the said Agreement of October 23, 1951, provides for increasing the pay of those fully covered by existing agreements between the Carrier and claimant organization.

**EMPLOYEES' STATEMENT OF FACTS:** There is an Agreement in existence between the parties to this dispute, bearing the effective date of January 1, 1947. Said Agreement, together with any memoranda revising or modifying the same, is on file with your Honorable Board, and by this reference is made a part of this submission the same as though fully set out herein.

The following Agreement rules are material to this dispute:

**ARTICLE 1.**

(a) **Scope.**

The term "train dispatcher" as herein used shall include all train dispatchers except one Chief Train Dispatcher in each dispatching office, who will not, regularly, be required to perform trick train dispatchers' duties.

NOTE: It is hereby agreed that vacancies (temporary or permanent) for Chief Train Dis-

compensated for such service at the straight time rate applicable to position worked prior to November 1, 1951, strictly in accordance with the terms of Article 3 (g). Incidentally, Train Dispatchers have obtained numerous wage increases through collective bargaining in the past, many of which have been given retroactive effect—the Chief Train Dispatcher's rate of pay also has been increased at the sole discretion of the Carrier—and this is the first instance to the Carrier's knowledge that the organization has ever contended that the increased rate of the Chief Train Dispatcher should be given retroactive effect to the same extent as the increase obtained by Train Dispatchers covered by the collective agreement.

Evidence is replete that this dispute is not properly before and must necessarily be dismissed by the Third Division for the reasons set forth under Paragraphs 1 and 2 hereof, and the Carrier so requests. In event the Third Division should elect to assume jurisdiction in the dispute, the Carrier respectfully requests that claim be denied for obvious lack of merit.

(Exhibits not reproduced)

**OPINION OF BOARD:** Claim is made by the Organization on behalf of the named employes, for difference in rate of pay between what they have received as retroactive compensation and what they should have received at the rate of pay alleged as retroactive pay allowed Chief Train Dispatcher, for days on which the claimants filled the position of Chief Train Dispatcher between February 1, 1951, and November 1, 1951.

The current Agreement provides as follows:

**"ARTICLE 3.**

**"(g)—Relief of Chief Train Dispatchers**

"Qualified train dispatchers on the division seniority roster will be used to effect relief of Chief Train Dispatchers for their weekly rest days, vacations and other periods of leave of absence, and will be compensated at straight time rate applicable to position worked."

Thus it is clear, the parties agreed that Train Dispatchers when filling position of Chief Train Dispatcher would be paid at the rate applicable to the position worked, in other words the rate paid to the Chief Train Dispatcher.

Claim is premised on the allegation that Carrier increased the rate of pay of Chief Train Dispatcher position on February 1, 1951, as evidenced by payment of \$388.96 to incumbent of Chief Train Dispatcher position, and alleged to have been paid as retroactive pay to February 1, 1951, and including the period to November 1, 1951.

Carrier denies categorically such payment made was in the nature of retroactive pay, and states the payment was made to the incumbent Chief Train Dispatcher for services as Acting Rules Examiner, a position not within the Scope of the Agreement. It will be noted from the record the incumbent was not appointed to the latter position until December 11, 1951, a time subsequent to the dates involved in the claim before us.

After due consideration of all the evidence contained in the record, the Board is of the opinion, that Article 3 (g) of the current Agreement is controlling, and that if the rate of pay of Chief Train Dispatcher was increased as of February 1, 1951, as alleged, the claim is sustained, otherwise denied.

It is therefore ordered that the Organization representative and Carrier representative make a joint check of Carrier records within thirty days

of the date of this Award to ascertain if the payment of \$388.96 was for pay for work performed by the employe in the capacity of Chief Train Dispatcher, or for some other purpose.

**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 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 if money paid to Chief Train Dispatcher was in the nature of retroactive pay for work performed as Chief Train Dispatcher, claim should be sustained, otherwise denied.

#### AWARD

Claim disposed of in accordance with the foregoing Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 20th day of November, 1953.