

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

SOUTHERN PACIFIC COMPANY (Pacific Lines)

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

1 (a) The Southern Pacific Company (Pacific Lines), hereinafter referred to as "the Carrier," failed to fully comply with the current effective Agreement between the parties to this dispute, specifically Article 2, Section (i), of that Agreement, when on January 20, 27, February 3, 10, 17 and 24, 1955, Claimant Hughes was required by Carrier to travel from Oakland Pier, California, to Stockton, California, to perform train dispatcher service and for such traveling was compensated a minimum of four (4) hours pay, at pro rata rate, trick train dispatchers rate of pay for each trip instead of a minimum of eight (8) hours pay, at pro rata rate, trick train dispatchers rate of pay for each trip, a difference of \$11.48 for each trip, and

1 (b) When on January 16, 23, 30, February 6 and 13, 1955, Claimant Hughes was required to travel from Stockton, California to Oakland Pier, California to perform train dispatcher service and for such traveling was compensated a minimum of four (4) hours pay, at pro rata rate, trick train dispatchers rate of pay for each trip instead of four hours and forty-five minutes (4'45") pay, at pro rata rate, trick train dispatchers rate of pay for actual time consumed in traveling for each trip, a difference of \$2.16 for each trip.

2 (a) Carrier shall now pay Claimant \$68.88 the difference due him for traveling from Oakland Pier to Stockton, California, January 20, 27, February 3, 10, 17 and 24, 1955, and

2 (b) Carrier shall now pay Claimant \$10.80 the difference due him for traveling from Stockton, California to Oakland Pier, California, January 16, 23, 30, February 6 and 13, 1955,—a combined total of \$79.68.

EMPLOYES' STATEMENT OF FACTS: There exists an Agreement between the parties to this dispute, effective April 1, 1947, on file with your Honorable Board and by this reference is made a part of this submission as though it were fully set out herein.

OPINION OF BOARD: Claimant here seeks reparations in a total amount of \$79.88, on account of time spent traveling to and from specified points on the dates enumerated, relying on Article 2, Section (i) of the effective agreement.

It is alleged that prior to the issuance of a directive or instructions to travel between Oakland Pier, California and Stockton, California via Bus, all travel between these points had been by train to the extent that such latter mode of travel had become a custom and practice, not now subject to change or modification by the unilateral action of the Carrier, and that in any event the above mentioned instructions are in truth and in fact permissive rather than mandatory.

The respondent asserts that the above quoted rule, which is admittedly controlling; does not specify what means of transportation shall be used, and that absent such specification it (the Carrier) is not restricted from designating the mode of transportation to be used. It was further contended that there exists no custom and practice utilizing trains as an exclusive mode of transportation or use of Carrier's trains as the standard for computing travel time under Article 2, Section (i).

Claimant is not required to pay his fare when traveling between the points in question. Far less overall time is required when a bus is used than when a train is used. Article 2 Section (i) provides for compensation for travel. It is silent as to the means to be used. The record here will not sustain claimant's contention as to an existing or controlling custom or practice thus the Carrier is free to designate the type of transportation to be used. Here the claimant did not, as he should, use the speediest means of transportation to the end that his employer would be protected against unnecessary travel time and resultant expense. This he is obligated to do.

The sustaining of this claim would amount to placing a stamp of approval on laxness and abuse of discretion to say nothing of requiring the payment for travel and expense not within the contemplation of the agreement. This claim is void of merit.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties to this dispute waived oral hearing thereon;

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 29th day of January, 1957.