

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

**PARTIES TO DISPUTE:**

**AMERICAN TRAIN DISPATCHERS ASSOCIATION**

**THE PENNSYLVANIA RAILROAD COMPANY**

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

(a) The Pennsylvania Railroad Company, hereinafter referred to as "the Carrier," violated the currently effective Agreement between the parties, Regulation 5-B-1 (c), Part III, thereof in particular, when upon being advised, at or about 10:35 P.M. February 3, 1962, that Extra Power Director A. V. Santawasso would be unable to report for duty Carrier failed to call Extra Power Director W. W. Thatcher, the next senior Extra Power Director to perform service.

(b) The Carrier shall now be required to compensate Claimant W. W. Thatcher eight (8) hours at pro rata rate of Power Director, for service he was contractually entitled to perform on 12:00 Mid-night to 8:00 A.M. assignment, February 4, 1962.

**EMPLOYES' STATEMENT OF FACTS:** There is a Schedule Agreement in effect between the parties, effective June 1, 1960, a copy of which is on file with the Board, and which by this reference is made a part of this submission as though fully set out herein.

Part III of said Agreement is applicable to the Claimant herein, an Extra Power Director. For the Board's ready reference the pertinent applicable provisions of the Relief and Extra Work Regulation (5-B-1) are quoted:

" \* \* \* \* \*

(c) Except as provided in the foregoing paragraph (b) of this regulation (5-B-1), relief assignments of less than five (5) days per week will be performed by extra employees.

The assignment of such work to extra employees will be in accordance with their seniority in the particular class and their availability, except when the use of the senior extra employee would require payment of the punitive rate of pay and a junior extra employee is

**OPINION OF BOARD:** The facts are not in dispute. On February 3, 1962, a temporary vacancy occurred in the position of Power Director, with a tour of duty beginning at 12:00 Midnight. At 1:20 P. M., that day, Carrier properly assigned Santawasso, the senior extra Power Director. Santawasso, who lived in Princeton Junction, New Jersey, proceeded to Trenton, where he expected to board P.R.R. No. 158, scheduled to leave at 10:25 P. M., and arrive in New York City at 11:35 P. M., in ample time for him to report at the beginning of his tour. He learned that P.R.R. No. 158 was running late and was not expected to arrive in New York until at least 12:30 A. M. He telephoned the Power Director's office at 10:35 P. M., and advised that he would be late. Train No. 158 developed further trouble after leaving Trenton and did not arrive in New York until 1:10 A. M.

Claimant Thatcher, the next available extra Power Director, lived in Newark, 11 miles away, close enough to be able to reach the Power Director's office before Midnight if he had been notified to do so immediately after Santawasso telephoned. Carrier, admittedly, did not notify Thatcher.

The Petitioner relies on the following rule:

**"RULE 5-B-1**

(c) Except as provided in the foregoing paragraph (b) of this Regulation (5-B-1), relief requirements of less than five (5) days per week will be performed by extra employees.

The assignment of such work to extra employees will be in accordance with their seniority in the particular class and their availability, except when the use of the senior extra employee would require payment of the punitive rate of pay and a junior extra employee is available who can be used at the pro rata rate of pay. An extra employee will not be considered available within the meaning of this Regulation (5-B-1) when working a conflicting tour of duty, and unless he is so situated that he can reach the point where the office is located in time to commence work at the starting time of the position."

Petitioner concedes that Santawasso was properly assigned. It argued, however, that when he telephoned at 10:35 P. M. that he would be late, he became unavailable according to Regulation 5-B-1 (c) and the Carrier was obliged to notify and assign the next extra Power Director.

The interpretation of the Rule urged by the Organization would lead to an absurd result. If, regardless of the circumstances, the prospective lateness of an employee were to create a vacancy to which the next senior furloughed employee became entitled, the employee who comes late, having been unavailable at the start of the trick, must be sent home. This was not the intention of the parties in writing the Rule. Mere lateness, especially when beyond the control of the employee, is not covered by this rule or any other in the Agreement. The Carrier satisfied the conditions of the Rule when it assigned Santawasso and his lateness did not require the Carrier to seek out the next available man.

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

That the parties waived oral hearing;

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 the Carrier did not violate the Agreement.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April 1964.