

Award No. 16119
Docket No. TD-16923

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

MISSOURI PACIFIC RAILROAD COMPANY

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

(a) The Missouri Pacific Railroad Company, (hereinafter referred to as "the Carrier,") violated the effective Agreement between the parties, Article 2(d) thereof in particular, by its failure and refusal to compensate Train Dispatcher R. V. Mowrey for service performed outside the hours of his assignment on March 9, 1966.

(b) The Carrier be required to additionally compensate Train Dispatcher R. V. Mowrey for a call, pursuant to Article 2(d) of the Agreement for services performed on March 9, 1966.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, copy of which is on file with this Board, and the same is incorporated into this submission as a part thereof, as though fully set out.

For the ready reference of the Board Article 2(d), which provides the particular basis of the claim is here quoted in full:

"CALL RULE

Subject to provisions of Article 3, a train dispatcher called for extra or relief service of less than eight (8) hours shall be paid on the basis of three (3) hours for two (2) hours' work, or less, and if held on duty more than two (2) hours will be compensated at pro rata rate for time worked in excess of two (2) hours; if used eight (8) hours, or more, will be compensated as provided in Sections (a) and (b) of this Article."

There is no disagreement between the parties with respect to the fact that Train Dispatcher R. V. Mowrey, the individual claimant herein, performed train dispatcher service in the Carrier's Little Rock, Arkansas, train dispatching office, on a 12:01 A. M. to 8:00 A. M. assignment on March 9, 1966. Nor is there any disagreement concerning the fact that such service was within the scope of the Agreement.

that he had planned to hold train 2nd No. 81 in the siding until Train No. 67 passed.

As a result of his brief telephone conversation with his Chief Dispatcher, the claimant filed a claim in the amount of three hours at the pro rata rate, giving as his reason for doing so — "to answer questions pertaining to derailment at Corning." The General Chairman in progressing the claim relied on the Call Rule, Article 2 (d). For the convenience of your Board, the rule reads as follows:

"(d) Call Rule.

Subject to provisions of Article 3, a train dispatcher called for extra or relief service of less than eight (8) hours shall be paid on the basis of three (3) hours for two (2) hours' work, or less, and if held on duty more than two (2) hours will be compensated at pro rata rate for time worked in excess of two (3) hours; if used eight (8) hours, or more, will be compensated as provided in Sections (a) and (b) of this Article."

(Exhibits not reproduced.)

OPINION OF BOARD: While Claimant was on duty as a Train Dispatcher, a box-car loaded with ammunition exploded causing extensive damage. His assigned hours of duty were from 12:01 A. M. to 8:00 A. M., on the day of the explosion. Having performed all his essential duties in connection with this accident, he was relieved at 8:00 A. M. and went home to bed. At 11:30 A. M., he received a call from the Chief Dispatcher requesting certain information relative to the accident. The Chief Dispatcher made the request of Claimant upon orders from a Trainmaster.

A claim was submitted by the Claimant alleging a violation of the Call Rule 2(d) of the Agreement. This Rule reads as follows:

"2(d) Call Rule.

Subject to provisions of Article 3, a train dispatcher called for extra or relief service of less than eight (8) hours shall be paid on the basis of three (3) hours for two (2) hours' work, or less, and if held on duty more than two (2) hours will be compensated at pro rata rate for time worked in excess of two (2) hours; if used eight (8) hours, or more, will be compensated as provided in Sections (a) and (b) of this Article."

A reading of the above Rule convinces us that the situation as outlined in this case, that is, a telephone call requesting some information does not constitute "extra or relief service" as those terms are used in the Call Rule. This Rule connotes a reporting to work by an employee and indeed the language itself is clear and precise on this point. Answering a telephone to give information, which at best involved a nominal amount of time, was never intended to come within the purview of the Call Rule. See Award 6107 (Messmore). The Rule involved is inapplicable. We will deny the claim.

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 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 was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 1st day of March 1968.