



Award No. 16267
Docket No. TD-16919

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ERIE LACKAWANNA RAILROAD COMPANY

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

(a) The Erie-Lackawanna Railroad Company, thereafter referred to as "the Carrier", violated the effective Agreement between the parties, Article 2(b) thereof in particular, by its failure to properly compensate Train Dispatcher R. L. Berrian for services performed on September 16, 1965.

(b) The Carrier now be required to additionally compensate Train Dispatcher Berrian for service performed on September 16, 1965, for four (4) hours' compensation at the time and one-half rate of the train dispatcher which Claimant Berrian performed service on said date.

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 herein as though fully set out.

For ready reference, Articles 2(a) and (b), both of which are material, are here quoted in full.

"(a) Eight (8) consecutive hours' work shall constitute a day.

(b) (Mediation Agreement March 14, 1942) Effective April 1, 1942, time worked in excess of eight (8) hours on any day, exclusive of the time required to make transfer, will be considered overtime and shall be paid for at the rate of time and one-half on the minute basis.

INTERPRETATION

In the absence of any concrete evidence that there was an understanding during mediation, to the effect that the words 'on any day' means 'tour of duty', the Board finds that the phrase 'on any day' as used in paragraph 2 (a) of the mediation agreement of March 14, 1942, has the same meaning that has been given it in many awards

that the denial decision was unacceptable, and the dispute would be progressed (Exhibit H).

(Exhibits not reproduced.)

OPINION OF BOARD: The issue and the parties in this case are identical to those contained in Award 16266. For the reasons stated in that opinion, 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 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1968.