

**Award Number 17782**

**Docket Number TD-18435**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Francis X. Quinn, Referee**

**PARTIES TO DISPUTE:**

**AMERICAN TRAIN DISPATCHERS ASSOCIATION**

**SEABOARD COAST LINE RAILROAD COMPANY**

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

- (a) The Seaboard Coast Line Railroad Company (hereinafter referred to as "the Carrier") violated the effective agreement between the parties, Articles III (a), V (a) and V (b) in particular, when on Monday, June 17, 1968, it improperly held Assistant Chief Dispatcher H. T. Story (hereinafter referred to as "the Claimant") off his permanent assignment for one day, a permanent assignment of five (5) days each week with assigned rest days Friday and Saturday each week, a permanent assignment to which he returned on Sunday, June 16, 1968, after having completed service on a temporary assignment which terminated 4:00 P.M., Friday, June 14, 1968.
- (b) For said violation the Carrier shall now compensate the Claimant one day's pay at pro rata Assistant Chief Dispatchers' daily rate.

**EMPLOYES' STATEMENT OF FACTS:** There is an Agreement in effect between the parties, a copy of which is on file with this Board. By this reference said Agreement is incorporated herein and made a part of this submission as though fully set out.

For the Board's ready reference Articles III(a), V(a) and V(b), the Agreement rules primarily involved, are below quoted in full, except Article V(a) is quoted in pertinent part:

**"ARTICLE III**

**(a) Rest Days**

Each regularly assigned train dispatcher will be entitled and required to take two (2) regularly assigned days off per week as rest days, except when unavoidable emergency prevents furnishing relief.

Unless prevented by the requirements of the service, extra train dispatchers will be relieved from train dispatcher service for a period of two (2) days for rest day purposes after they have performed five (5) consecutive days' work as train dispatcher.

Such rest days shall be consecutive to the fullest extent possible. Non-consecutive rest days may be assigned only in instances

"In this connection your attention is directed to the opinion of the Board, Third Division Award No. 11859:

'The record here shows that the Claimant, during the period August 6, 1967, through August 25, 1967, relieved Signal Maintainer Jacop, whose work week was Tuesday through Saturday, rest days Sunday and Monday, and during the period August 25 through September 1 he relieved Signal Maintainer York, whose work week was Monday through Friday, rest days Saturday and Sunday. The claim is for the difference between straight and overtime pay for the date of August 26 on the basis this was a rest day earned in the filling of Jacop's position.

'Rest days attach to positions filled, and since Jacop's position called for rest days of Sunday, August 25, and Monday, August 26, Claimant's work on the latter date was rest day work for which premium is due. This holding accords with the Forty-Hour Week Agreement and prior awards of this Board.'

"In the instant case, Claimant Story was filling position with working days Tuesday through Saturday, rest days Sunday and Monday; when he was assigned to work Saturday, June 15, such day was one of the working days of the position on which he relieved, and Sunday and Monday, June 16 and 17, 1968, were rest days of the temporary vacancy (Mr. E. M. Anderson's vacancy). Claimant Story did not work on Monday, June 17, 1968, and he observed a rest day thereon under the provisions of Article V (b), Paragraph 2, previously quoted. There being no violation of Article V of the agreement, the claim in behalf of Claimant Story on June 17, 1968, is declined. This letter will confirm decision which was extended to you in conference on November 5, 1968, by Mr. Busch, that the claim is declined."

**OPINION OF BOARD:** Dockets TD-18435 and TD-18436 have been considered concurrently as they involve the same Claimant and actually arise from the same circumstances, i.e., the use of Claimant on another position as result of his application for such position.

Our study of the records in both dockets indicates conclusively that Claimant was instructed to and did return to his regular position on June 16, 1968. Having instructed him to return to that assignment on June 16, the Carrier violated the Agreement in not permitting him to work his assignment on June 17. The claim for one day at pro rata rate as Assistant Chief Dispatcher for June 17, 1968 will be sustained.

**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 violated.