

Award No. 18449
Docket No. TD-18716

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(a) The St. Louis-San Francisco Railway Company (hereinafter "the Carrier") violated the effective Agreement between the parties, Article 1 (b) thereof in particular, when on December 28, 1968 it required and/or permitted an employe not within the scope of the Agreement to perform work covered thereby.

(b) Because of said violation, the Carrier shall now compensate the senior available extra train dispatcher then available, one day's compensation at pro rata rate applicable to assistant chief dispatcher position for said violation.

(c) In the event no extra train dispatchers were available on the day of said violation, Carrier shall compensate the senior assigned train dispatcher then available because of observance of his assigned weekly rest day, one day's compensation at time and one-half rate applicable to assistant chief dispatcher position for said violation.

(d) The individual claimant entitled to compensation herein claimed shall be determined by a joint check of the Carrier's records.

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 Ex Parte Submission as though fully set out herein.

For the Board's ready reference Article I of said Agreement is here quoted in full:

"ARTICLE I

(a) SCOPE

This agreement shall govern the hours of service and working conditions of train dispatchers. The term 'train dispatcher' as hereinafter used, shall include night chief, assistant chief, trick, relief

July 22, 1969 at which time the Director of Labor Relations reaffirmed his decision of June 3, 1969.

On August 30, 1969 the General Chairman advised the Director of Labor Relations that his decision was not acceptable and that the dispute was being referred to the President of the Claimant Organization for further handling. (Exhibit TD-1)

It was agreed by the Director of Labor Relations, confirmed in writing under the date of September 29, 1969, to extend the time limit imposed by Article VI (b) of the Agreement up to and including March 3, 1970. (Exhibit TD-2)

All data and contentions herein set out have been the subject of discussion and/or correspondence between the parties or are known and available to the Carrier and therefore made apart of this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENTS OF FACTS:

CLAIM 1

July 23, 1968 assistant superintendent issued telegraphic advice that the regular telegrapher would report for work on his regular assignment July 24, 1968 and that the relieving telegrapher would return to the extra board.

On Friday, July 26, 1968 and on Thursday, August 1, 1968 the assistant superintendent notified the regular telegrapher to protect week end work at Hugo, Oklahoma on call basis as needed. Under Article II (12) of the Telegraphers' Schedule, a telegrapher not assigned to work on rest days and/or specified holidays is not required to be available for service on such days unless given advance notice to be available.

CLAIM 2

December 13, 1968 the Trainmaster at Enid, Oklahoma issued telegraphic advice to the chief dispatcher and the Agent at Winfield, Kansas notifying the latter of a change in his assigned work period effective December 16, 1968.

CLAIM 3

January 16, 1969 Trainmaster at Enid, Oklahoma issued telegraphic advice arranging vacation relief for the regular Agent at O'Keene, Oklahoma, commencing January 20, 1969.

CLAIM 4

December 28, 1968 the Trainmaster at Enid, Oklahoma issued telegraphic advice arranging for emergency relief of the Agent at Clinton, Oklahoma to permit her to accompany her husband to an Oklahoma City hospital for surgery.

OPINION OF BOARD: This dispute involves the same parties, issues and Agreement as in Award No. 18448. For reasons stated in that Award the Claim is denied.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 19th day of March 1971.

LABOR MEMBERS' DISSENT TO
AWARDS 18448, 18449, 18450, 18451
DOCKETS TD-18719, TD-18716, TD-18717, TD-18718

The majority's opinion is completely erroneous.

The majority's opinion refers to:

"* * * the transmittal of the message * * *"

and

"* * * that the transmittal of directory messages * * *"

The transmission of messages was not the issue of the disputes. The employees never took that position. The issue was persons not within the scope of the agreement performing work covered therein. The work in question was the decision involving the supervision of employees. not transmittal of messages after the decision was made.

For this and other reasons, this dissent is registered.

George P. Kasamis
G. P. Kasamis
Labor Member

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