



Award No. 18575
Docket No. TD-19069

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William M. Edgett, 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 Article II (a), II (b) and VIII (a) thereof in particular, when it failed to compensate Train Dispatcher W. C. Ginn (hereinafter referred to as "the Claimant") for thirteen (13) hours' service performed by him Tuesday, July 15, 1969.

(b) The Carrier shall now compensate the Claimant for eight (8) hours' service performed from 7:59 A. M. to 3:59 P. M. July 15, 1969, computed in accordance with Article VIII (a) of the Agreement, and five (5) hours' service from 3:59 P. M. to 8:59 P. M. July 15, 1969, computed in accordance with Article II (a) of the Agreement.

(c) The compensation claimed in paragraph (b) shall be subject to the payment of interest thereon at the maximum rate allowable in accordance with the statutes of the State of Florida.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, copy of which is on file with this Board and by this reference that Agreement is made a part of this Submission as though fully set out.

For the Board's ready reference Articles II(a), II(b) and VIII(a) of the Agreement rules primarily involved are below quoted in full:

"ARTICLE II

HOURS OF SERVICE AND OVERTIME

(a) 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. Eight consecutive hours will constitute a day's work.

use airline transportation departing Atlanta on morning of July 15, 1969. According to Mr. Ginn, he departed his home in his automobile for the Atlanta Airport at 7:30 A. M., where he enplaned for trip to Birmingham, landing there at 7:50 A. M. Mr. Ginn departed Birmingham at 7:45 P. M. E.S.T., the same day, arrived Atlanta Airport at 8:15 P. M., and returned to his home in his automobile, arriving there at 8:59 P. M., E.S.T.

Mr. Ginn was relieved from duty that night, because of lateness of the hour when he arrived in Atlanta Airport on the night of July 15, 1969, one of his assigned work days, after which he observed his two rest days, then returned to his regular assignment.

Claimant Ginn actually lost two days from his assignment, July 14 and 15, 1969, and he has been compensated therefor in accordance with provisions of Article VIII. Additionally, he was furnished necessary transportation, in this instance airline transportation, and actual expenses on July 15, 1969, in accordance with Article VIII.

Claim was presented for additional compensation by Claimant Ginn, Train Dispatcher, and was declined in Chief Train Dispatcher J. G. Sammos' memorandum dated July 22, 1969, attached hereto as Carrier's Exhibit "A." The instant claim was thereafter initially submitted in General Chairman Story's letter dated September 18, 1969, attached hereto as Carrier's Exhibit "B."

The claim was thereafter declined at all levels of appeal and the complete record covering the handling on the property is attached hereto as Carrier's Exhibits "A" through "J."

Article VIII of the agreement reads as follows:

ARTICLE VIII

ATTENDING COURT OR INVESTIGATIONS

"(a) Train dispatchers required by the Company to attend court or appear as witnesses for the Company at hearings at a point away from their headquarters will be compensated at the rate of their regular assignment for each day so engaged, except that if so used on rest days established by Article III they will be compensated as provided therein. Such train dispatchers shall also be furnished necessary transportation and be reimbursed for necessary actual expenses. Any fees or mileage accruing shall be assigned to the Company.

(b) Train dispatchers so required to appear at their headquarters in advance of the starting time of their assignment will be paid three hours' pay at pro rata rate for two hours' service or less, and if held on duty to so appear after completing their assignment for that day will be compensated at overtime rate for actual time held with a minimum of one (1) hour. When required to so appear on rest days established by Article III they will be compensated as provided therein."

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was required to attend an investigation as a witness for Carrier, which was held in Birmingham, Alabama. He left

his normal duty station, Atlanta, Georgia on July 15, 1969 at 8:20 A. M. The investigation was postponed, a fact without relevance to this claim, and he departed Birmingham at 7:45 P. M. on the same date, arriving in Atlanta at 8:59 P. M.

Carrier relieved Claimant from duty on July 14 and July 15, compensating him for eight hours at his regular rate for each day. Claim is for an additional eight hours pay, plus five hours at time and one-half.

Article VIII of the Agreement states:

"ATTENDING COURT OR INVESTIGATIONS

(a) Train dispatchers required by the Company to attend court or appear as witnesses for the Company at hearings at a point away from their headquarters will be compensated at the rate of their regular assignment for each day so engaged, except that if so used on rest days established by Article III they will be compensated as provided therein. Such train dispatchers shall also be furnished necessary transportation and be reimbursed for necessary actual expenses. Any fees or mileage accruing shall be assigned to the Company.

(b) Train dispatchers so required to appear at their headquarters in advance of the starting time of their assignment will be paid three hours' pay at pro rata rate for two hours' service or less, and if held on duty to so appear after completing their assignment for that day will be compensated at overtime rate for actual time held with a minimum of one (1) hour. When required to so appear on rest days established by Article III they will be compensated as provided therein."

Article II (a) and II (b) states:

"HOURS OF SERVICE AND OVERTIME

(a) 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. Eight consecutive hours will constitute a day's work.

(b) The term 'time required to make transfer,' as used in (a) above, includes the time it is necessary for the train dispatcher who is being relieved to turn over to the relieving train dispatcher the information necessary to permit the relieving train dispatcher to fully and completely begin dispatcher service on the trick to which he is assigned. A train dispatcher who is required to remain in charge during the time transfer is being made will not be considered as having accrued overtime. Except to extent provided herein with respect to transfer time, a train dispatcher required to remain on duty after the expiration of his tour of duty will be paid for such time as overtime."

Carrier correctly relies on the clear meaning of Article VIII, as it applies to the facts of this case. Claimant was required to attend a hearing at a point away from his headquarters on a regular day. Article VIII (a) specifies that

payment in such a case will be at "the rate of their regular assignment." Since Claimant was relieved from duty he was correctly paid what he would have received at his regular assignment.

Claimant avers that he is concerned that a ruling not in his favor in this case will mean that an employe may be required to work and to attend a hearing on the same day without receiving extra compensation for the hearing. The answer to this concern is that this case does not deal with that factual situation and therefore is not a ruling on such a case. The holding here is, of course, restricted to the facts before the Board in this case.

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 Employes involved in this dispute are respectively Carrier and Employes 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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1971.