

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19309
Docket Number TD-19614

Arthur W. Devine, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(The Denver and Rio Grande Western Railroad Company

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

(a) The Denver and Rio Grande Western Railroad Company, hereinafter referred to as "the Carrier" violated the Agreement in effect between the parties, Rule 7(e) thereof in particular, by its failure and refusal to properly compensate Train Dispatcher A. D. Clemons for service performed as a Carrier witness at a formal investigation on February 3, 1969 and by its failure and refusal to properly compensate Train Dispatcher Loyd Lynch for service performed as a Carrier witness at a formal investigation on February 5, 1969.

(b) Carrier shall now compensate Claimants Clemons and Lynch the difference between what has been allowed and what is properly due in accordance with the provisions of Rule 7(e) of the Agreement.

OPINION OF BOARD: The claimants were required by the Carrier to attend investigations as witnesses on their assigned rest days. The Carrier paid the claimants in accordance with Rule 2(d), which reads:

"RULE 2. HOURS OF SERVICE - OVERTIME CALLS

(d) Train dispatchers notified or called to perform work not continuous with their regular work period will be allowed a minimum of three (3) hours for two (2) hours' work or less at pro rata rate and if held on duty in excess of two (2) hours, time and one-half will be allowed on the minute basis".

The Petitioner is claiming eight hours pay for each claimant under the provisions of Rule 7(e) which reads:

"RULE 7 - ATTENDING COURT

(e) Train dispatchers who, at the request of the company attend court or appear as witnesses for the Carrier, will be furnished transportation and will be compensated at the daily rate of their assignment, or if an extra train dispatcher, at trick train dispatcher's daily rate for each day so engaged with a maximum of eight (8) hours for each calendar day. Necessary actual expenses while away from headquarters will be allowed.

Any fee or mileage accruing will be assigned to the Carrier."

Employees attending investigations as witnesses on behalf of a Carrier are performing a service for the Carrier. When such service is performed on assigned rest days, it is proper for it to be paid for under the call rule, Rule 2(d), as it is work not continuous with the employees' regular assignment. Rule 7(e) covers attendance at court which is not involved here (See Award 17164).

As the claimants have been paid in accordance with Rule 2(d), no further payment is due.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.