

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20070  
Docket Number TD-19910

John H. Dorsey, Referee

(American Train Dispatchers Association  
PARTIES TO DISPUTE: (  
(Soo Line Railroad Company

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

(a) The **Soo** Line Railroad Company (hereinafter referred to as "the Carrier") violated the Agreement between the parties, Rule 4 (a) and Rule 22 (a) thereof in particular when it refused to compensate Claimant Train Dispatcher C. J. Macki for eight (8) hours at the then applicable pro-rata trick dispatchers' rate on August 9, 1970 account time lost, and eight (8) hours at one and one-half times the basic straight time rate of Night Chief Dispatcher's position for August 11, 1970 which was service on assigned rest day.

(b) The Carrier shall now compensate the individual Claimant for eight (8) hours pro-rata at trick dispatchers' rate on August 9, 1970, and the amount of the difference between the pro-rata rate and the time and one-half rate for August 11, 1970 to which he is entitled under the terms of the Agreement.

OPINION OF BOARD: Claimant, an extra train dispatcher working off the train dispatchers' extra board in Carrier's Stevens Point, Wisconsin, office, made bid for a permanent position advertised by bulletin dated July 27, 1970, and posted as per terms of the Agreement. Carrier, by bulletin issued on August 7, 1970, announced that Claimant was "the senior bidder and is assigned to the permanent vacancy,..." At that time Claimant was working on a continuing vacancy as extra dispatcher on the Night Chief Dispatcher position.

Carrier did not de facto assign Claimant to work on the permanent position, which he had bid in, until August 19, 1970.

It is the Organization's position that Claimant was contractually entitled to work the permanent position **immediately** following his selection -- August 7, 1970 -- to the permanent position; and, had this been done he would have been compensated as alleged in the claim.

It is Carrier's position that in the absence of an expressed contractual obligation it is a prerogative of management to fix the date on which a successful bidder will be assigned to perform the duties of the bid in position and become entitled to the emoluments of the position.

The bulletins, referred to above, do not fix a date when a successful **bidder** will assume the duties of the position.

There is no rule in the Agreement -- none was cited -- specifying when a successful bidder will be placed on a position.

This Board has no jurisdiction to fix by edict a time limitation within which an action must be accomplished by either party; nor, does this Board have any equity powers. Lacking equity jurisdiction, we may not **premise** a finding solely on our sense of what is "reasonable."

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

The claim must be denied because the record does not support a finding that Carrier violated the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at **Chicago**, Illinois, this 14th day of December 1973.