NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20377
Docket Number TD-20419

Frederick R. Blackwell, 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 referred to as ("the Carrier") violated the effective Schedule Agreement between the parties, Article III (a) 1 thereof In particular, when it failed and refused to compensate Claimant Train Dispatcher P. E. Paulsell at time and one-half the daily rate applicable to Chief Dispatchers for service performed on Position No. 1 on September 15, 1972.

(b) Because of said violation, Carrier shall now be required to compensate Claimant P. E. Paulsell the difference between one (1) day's compensation at the pro rata daily and time and one-half daily rate applicable to Chief Dispatchers for September 15, 1572.

OPINION OF BOARD: The Claimant, a regularly assigned Relief Train Dispatcher, was used on his rest day to fill a one-day vacancy on the excepted position of the Chief Dispatcher. The vacancy occurred because the Chief Dispatcher took leave for an annual physical; it was not his rest day. The claim is that time and one-half is due Claimant under Article III(a)(l) of the Agreement and a letter Agreement dated February 20, 1952, because he worked the position on his rest day; however, Carrier says the Claimant merely stepped into the shoes of the Chief Dispatcher, as expressly provided by a November 19, 1952 letter agreement, and, thus, its pro rata payment of Claimant was proper. As additional support for pro rata pay, the Carrier states that Claimant requested the one-day vacancy.

The pertinent texts of the agreement and special letters of agreement read as follows:

"ARTICLE III

Rest Days, Vacation and Relief Service

(a) Rest Days

"1. . . . . Any regularly assigned train dispatcher, who is required to perform service on the rest days assigned to his position, will be paid at rate of time and one-half for service performed on either or both of such rest days."

"CARRIER LETTER, FEBRUARY 20, 1952

. . . . . .when a train dispatcher is used to relieve the excepted chief dispatcher on other than the latter's rest day, he will be compensated at one and one-half times the pro-rata daily rate of the excepted chief dispatcher position for the second tour of duty within a 24-hour period or for work performed on the rest day or days assigned to his position. When a train dispatcher is used to relieve the excepted chief dispatcher on the latter's rest day, he will be compensated for such work at pro-rata daily rate of the excepted chief dispatcher position in accordance with the letter agreement of August 6, 1948." (Underlining added)

"CARRIER LETTER, NOVEMBER 19, 1952

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2. On the days Train Dispatcher is relieving excepted Chief Dispatcher, it is understood Train Dispatcher takes the responsibility for proper performance of Chief Dispatcher's work, and that his working conditions, including hours of service, will be the same as apply to Chief Dispatcher."

The claim is clearly supported by Article III (a) (1) and the letter Agreement of February 20, 1952. The texts of such article and letter Agreement specifically provide that time and one-half shall be paid to a train dispatcher who, on his rest day, relieves the Chief Dispatcher on other than the Chief Dispatcher's rest day. This provision squarely fits the facts of this case and the claim most be sustained. This Board has heretofore considered and rejected the herein arguments of Carrier that pro rata pay was justified because of the Claimant's request for the vacancy, and because the November 19, 1952 letter supersedes the February 20, 1952 letter in respect to the relief situation involved in this dispute. See Award No. 20138 which involved the same parties and property, and which found for the Employees on an identical claim arising under the same Agreement language quoted hereintofore. To the reasoning laid out in Award No. 20138, we would add our doubts that the general language in the November 19, 1952 letter is sufficient to negate and nullify the specific language contained in the February 20, 1952 letter Agreement.

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

The Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 6th day of September 1974.