

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21620
Docket Number TD-21568

David C. Randles, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Burlington Northern Inc.

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

(a) The Burlington Northern Inc. (herein after referred to as "the Carrier"), violated Article 3(b) of the currently effective Agreement between the Carrier and the American Train Dispatchers Association, when on May 27, 1974 it declined the punitive rate timeslip presented by Dispatcher W. E. LaMon for one (1) hour to attend investigation as a Carrier witness on May 23, 1974 at Vancouver, Washington.

(b) Because of said violation, the Carrier shall now be required to compensate Claimant W. E. LaMon the difference between one (1) hour's pay at time and one-half rate and the one (1) hour pay at straight time rate which was allowed.

OPINION OF BOARD: Claimant Train Dispatcher W. A. LaMon was regularly assigned in Carrier's Vancouver, Washington train dispatching office with weekly assigned rest days of Thursdays and Fridays. Superintendent notified claimant to appear as witness at an investigation to be held at 10:00 A.M. Thursday, May 23, 1974. Claimant attended the investigation as requested which lasted from 10:00 - 11:00 A.M. on May 23, 1974, his rest day. His time slip for one (1) hour's compensation at the overtime rate for rest day service was declined by the Chief Dispatcher on May 27, 1974 because it was "not substantiated by schedule rules. Claim will be paid at the straight time rate."

The Organization argues that pursuant to Article 3b, entitled Service on Rest Days, the claimant is entitled to the time and one half rate. 3b: "A regularly assigned train dispatcher required to perform service on the rest days assigned to his position will be paid at the rate of time and one half for service performed on either or both rest days."

The Carrier cites Article 20 which directly relates to attending court or an inquest or other business on **behalf** of the company during their regularly assigned work day **shall** be paid at the regular rate - the daily rate of their assignment. If this should occur on their rest day, the provisions of Article 3b would **apply**.

This Board finds that the **claimant** was performing service within the meaning of Article 3b when he attended the investigation on **May 23, 1974**. On that basis the claim is sustained. (See also: Third Division Awards 21536, 18434, 17316, 17164, 16778, 15729, 14124, 10062, 3966, 2032.)

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST :

A. W. Pauls
Executive Secretary

Dated at **Chicago**, Illinois, this 29th day of July 1977.

