

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26311

Docket Number TD-25656

John B. LaRocco, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Consolidated Rail Corporation

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

(a) The Consolidated Rail Corporation (hereinafter referred to as the 'Carrier' or 'ConRail') violated Rules 1(a) and 1(b) 1 of its Train Dispatchers' schedule working conditions Agreement when it permitted and/or required an employee title 'Guaranteed Extra Dispatcher Assistant' to fill positions of Assistant Chief Dispatcher in its Baltimore, Md. office on January 17, 1982 and certain dates subsequent thereto.

(b) Because of said violation, the Carrier shall now compensate the senior extra Train Dispatcher in the Philadelphia District seniority district who is qualified as an Assistant Chief Dispatcher and available at the starting time of each shift on which a 'Guaranteed Extra Dispatcher Assistant' performs service on any Assistant Chief Dispatcher position in the Baltimore, Md. office on an after January 17, 1982.

(c) In the event no qualified extra Train Dispatchers are available at the starting time of any of the Assistant Chief Dispatcher positions on any of the dates referred to in paragraph (b) above, the claim is made on behalf of the senior regularly assigned Train Dispatcher in the Philadelphia District seniority district who is qualified as an Assistant Chief Train Dispatcher, at the time and one-half rate.

(d) Eligible individual Claimants entitled to the compensation requested in paragraphs (b) and/or (c) above are readily ascertainable on a continuing basis from the Carrier's records and their respective identities shall be determined by a joint check thereof."

OPINION OF BOARD: On November 18, 1981. the Carrier published Bulletin No. 42 advertising a position titled "Guaranteed Extra Dispatcher Assistant" at the Carrier's Baltimore office. This job title does not appear among the various classes of Dispatchers listed in Rule 1(b). Pursuant to Bulletin No. 43 issued several days later, the Carrier awarded the newly established position to the successful bidder. The same Bulletin contemplated that the four regularly assigned Dispatcher Assistant positions would be reclassified as Assistant Chief Dispatcher positions. However, the Carrier never implemented the planned reclassification. While the record is unclear, the Carrier apparently envisioned that the Guaranteed Extra Dispatcher Assistant would receive the Dispatcher Assistant pay rate for covering temporary vacancies arising on the contemplated Assistant Chief Dispatcher positions.

This dispute is governed by Appendix A of the applicable Agreement. The pertinent portion of Appendix A provides:

"Where payroll classification does not conform to the foregoing, anyone performing service specified therein shall be reclassified in accordance therewith."

In essence, Appendix A when read in conjunction with Rule 1 mandates the Carrier to classify positions according to the classification system set forth in Rule 1(b)1, 1(b)2 and 1(b)3. Although the Carrier correctly argues that Rule 4 does not require the Carrier to specify a job title in an advertisement, classifying positions by the appropriate job titles is essential to determining the scope of duties and the pay rate that accrue to the incumbent of the **position**. The position labeled "Guaranteed Extra Dispatcher Assistant" is a fictitious class. Therefore, the Carrier must reclassify the position in accord with Rule 1(b) and Appendix A.

Nonetheless, **this** Board must deny the portion of the Claim which seeks monetary damages. Inasmuch as the Carrier abandoned its plan **to** reclassify the four Dispatcher Assistant positions, the so-called Guaranteed Extra Dispatcher Assistant was not filling temporary Assistant Chief Dispatcher vacancies. Instead, the incumbent of the position covered work primarily performed by the Dispatcher Assistants. In Award No. 26310, we ruled that the regular Dispatcher Assistants were performing only a modicum of work exclusively reserved to Assistant Chief Dispatchers. The Organization has not offered any evidence to prove that the Carrier failed to apply the terms of the Rule 1(b) Note to the Guaranteed Extra Dispatcher Assistant just as it properly applied the Note to the four Dispatcher Assistants.

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 violated.

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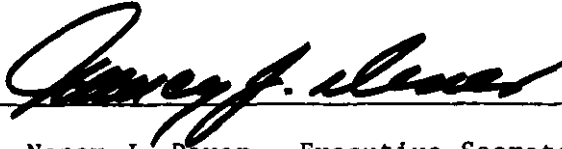
Page 3

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in dark ink, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1987.