

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Southern Pacific Transportation Company (Eastern Lines)

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

(a) The Southern Pacific Transportation Company (hereinafter referred to as 'the Carrier'), violated the effective agreement between the parties, Rule 6 thereof in particular, when time claimed on claimant's time card was disallowed by the carrier.

(b) For the above violation, the Carrier shall now compensate Claimant D. M. Bernstein one day's compensation at the overtime rate applicable to Chief Train Dispatchers for Thursday, January 15, 1987."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant is employed by Carrier as a Train Dispatcher in San Antonio, Texas. On Thursday, January 15, 1987 (Claimant's regularly scheduled rest day), he was directed to attend a disciplinary hearing into charges that he had failed to follow certain written instructions. Prior to a formal hearing commencing, it was discovered that Carrier's notice of the investigation was untimely and Carrier's Hearing Officer dropped the charges against Claimant. Claimant subsequently requested two hours' pay for January 15, at the punitive rate. Carrier denied payment. Claimant then modified his position and filed a claim for one day's pay at the punitive rate. The claim was handled in the normal manner and was placed before this Board for adjudication.

This Board has reviewed the record and concludes that Carrier has the more persuasive position. Claimant was the charged party. Due to a violation of the time limits, his case was dropped by Carrier at the hearing. Claimant at this point is covered by Rule 25. A hearing was begun, but due to the time

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limit violation, the case was dropped. This is clearly a decision in the employee's favor, as covered under the Rule.


The Rule, however, only makes allowance for compensation to cover net wage loss suffered by the Claimant. Since Claimant was on his rest day, he lost no wages.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.