

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10187) that:

(a) Carrier violated the provisions of the current Clerks' Agreement when it failed or refused to properly compensate Mr. M. I. Whitcher for holidays on May 26, 1986, and July 4, 1986, and

(b) Mr. M. I. Whitcher shall now be compensated for eight (8) hours' pay at the pro rata rate of Traffic Controller Turner Position No. 5010 for each day, May 26, 1986, and July 4, 1986, in addition to any other compensation Claimant may have received for these days."

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.

In Third Division Award 28336 involving the same parties and the same issue, the Board held that an employee was not entitled to receive benefits, namely in this instance, holiday compensation, while working under another Agreement. In the case herein, Claimant, who was a Clerk, worked as a Dispatcher on May 26 and July 4, 1986, and did so under the regulatory auspices of the American Train Dispatchers Association Agreement. It was the Organization's position that there was no intent under the Agreement to disqualify a regularly assigned employee for holiday pay when said employee may have worked under another Agreement. Carrier disputed this contention.

Form 1
Page 2


Award No. 28440
Docket No. CL-27993
90-32-87-3-522

Accordingly, in line with our decision in Award 28336, the Board, of necessity, must find for Carrier. We take judicial notice however, that a thoughtful Dissent was filed by the Board's Labor Member.

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 21st day of June 1990.