

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35844
Docket No. TD-34596
01-3-98-3-235**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(American Train Dispatchers Department
(International Brotherhood of Locomotive Engineers**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

- “(A). CSX Transportation, Inc., (“Carrier”), violated Article 5(I) Order of Call of its American Train Dispatchers Agreement applicable in the Jacksonville Centralized Train Dispatching Center (JCTDC), when it failed to call claimant Train Dispatcher C. J. Boehm for overtime on his rest day.**
- (B). Because of said violation, Carrier shall now compensate claimant, Train Dispatcher C. J. Boehm for eight (8) hours pay for lost work opportunities applicable to the JCTDC rate for April 2, 1997.”**

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 employee 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 were given due notice of hearing thereon.

The Claimant was the regularly assigned Train Dispatcher on the Louisville Service Lane assigned to the 3rd Trick "CF" Console at the Jacksonville, Florida, Centralized Train Dispatching Center, with Wednesday and Thursday as assigned rest days. On Wednesday, April 2, 1997 (the Claimant's rest day), the regular assigned relief Train Dispatcher marked off sick. No Guaranteed Assigned Train Dispatcher was available to protect the vacant assignment at the straight time rate. J. O. Love, who is senior to the Claimant and assigned to the 3rd Trick "SA" Console and who also had Wednesday as a rest day, was called and filled the position.

It is undisputed that under Article 5(i), the designated order of call gave the Claimant preference to protect the vacant assignment over Love. However, the record shows that multiple attempts were made to contact the Claimant, including leaving a message on his recorder asking him to call in when he received the message. By the time the Claimant did return the call at 8:30 P.M., the Carrier had moved on and contacted Love to protect the vacant assignment. The record further shows that Love was lined up to protect the vacant assignment more than two hours before the start of that assignment. Therefore, because the calls to the Claimant were placed before the call to Love, the record shows that the Carrier unsuccessfully attempted to contact the Claimant on several occasions far more than two hours before the start of the assignment.

The Organization has not carried its burden to demonstrate a violation of the Agreement. See Third Division Award 31972:

"In these situations, the Carrier "has the obligation to make a reasonable effort to communicate with employees. . . ." Third Division Award 21222."

In this case, multiple calls to the Claimant and leaving a message with him about protecting the vacant assignment far more than two hours in advance of the start of the assignment met the Carrier's obligation.

The claim is denied.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 18th day of December, 2001.