

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

THE AMERICAN TRAIN DISPATCHERS ASSOCIATION
ERIE RAILROAD COMPANY

STATEMENT OF CLAIM.—

"Claim by the American Train Dispatchers Association, representing the Train Dispatchers in the employ of the Erie Railroad Company that—

"(a) The rules of the existing schedule-agreement provide that the seniority roster covering a dispatching office, before or after another dispatching office has been consolidated with such office, shall show the names of all those who, under the rules of such Agreement, hold seniority rights as Train Dispatcher in the dispatching office where employed; that such names be dovetailed according to the seniority acquired by each man under the provisions of the rules, and that train dispatchers shown on such roster be permitted to exercise such seniority to any and all train dispatcher positions in such dispatching office.

"(b) Management of this carrier be ordered to apply the rules in accordance with paragraph (a) hereof in all dispatching offices on the system, and that where two or more dispatching offices have heretofore been consolidated into one, the intent of the rules as indicated by paragraph (a) hereof be made effective retroactively with the date of such consolidation and that anyone who has sustained any monetary loss by reason of the rules not having been applied in accordance with the above be compensated by the carrier for any and all such loss."

STATEMENT OF FACTS.—On March 15, 1932, or shortly thereafter, the dispatching office at Meadville was abolished and the train dispatching and dispatching force were moved to Salamanca and placed in the same office and under the supervision of the Salamanca Chief Dispatcher the same as the Salamanca dispatchers.

At approximately the same time a portion of the work and a portion of the force in the Susquehanna dispatching office were moved to Hornell and placed under the supervision of the Chief Dispatcher at that point. In October 1934 the balance of the train dispatching work and force were also moved to Hornell and placed under the supervision of the Chief Dispatcher at that point, the office at Susquehanna being abolished entirely.

There is evidence of an agreement covering train dispatchers effective May 16, 1929, and the following rules are cited as applicable:

"RULE 6-(A)

"Seniority rights will be limited to each dispatching office. Where consolidations have been made, no change in positions will be made until vacancies occur."

"RULE 6-(B)

"Seniority as Train Dispatcher will date from the time service as such is first performed."

"RULE 8

"In the event that two or more dispatching offices are combined, divided, or new office created, involving two or more seniority districts, the re-arranged positions will be filled in accordance with ability and seniority

That Rule 9 provides that a roster showing the seniority standing of train dispatchers will be prepared for each dispatching office.

The petitioner contends that after two dispatching offices are combined, there remains but one office, and that in order to comply with all the rules cited a new roster must be issued in which all the names appearing on the two original rosters will be dovetailed into one roster, each name with its original seniority date.

POSITION OF CARRIER.—The carrier contends that this dispute is improperly before the Third Division for the reason that the petitioner does not name any specific instance wherein it is contended that the Erie Railroad Company has violated the intent of any of the rules of the agreement.

The carrier also contends that:

"The rules definitely do not require or permit the dovetailing of rosters without mutual understanding and agreement * * *."

OPINION OF BOARD.—This claim covers in its essential facts the conditions originally presented to this Third Division of the National Railroad Adjustment Board in Docket No. TD-77 on which Awards Numbers 85 and 190 were rendered, and, together with the conditions of this instant claim, covers an unadjusted dispute between the American Train Dispatchers Association representing the employees, and the carrier.

In the submission as to the merits of this claim the carrier contends that the matter outlined by the claimants is improperly before this Board because the representatives of the Association did not name any specific instance wherein the carrier had violated the intent of any of the rules of the agreement. The Board, however, rules that inasmuch as this claim is based upon a dispute between the Association, representing the employees, and the carrier, as to the interpretation and application of certain specified rules of the agreement between the parties, the claim is properly before this Third Division of the National Railroad Adjustment Board, in accordance with the provisions of the Amended Railway Labor Act, approved June 21, 1934.

In the opinion and award of this Third Division as outlined in Award No. 85, dated at Chicago, Sept. 3, 1935, the statement is made that "inasmuch as the roster is to cover the 'office,' that the seniority of each man represented on such roster extends to every man covered by the Agreement 'in such office,' and that there is nothing in the Agreement permitting the subdivision of the positions in an office so as to limit the extent of any employees' seniority to a dispatching district."

In the supplemental Award, No. 190, issued by this Division on Jan. 28, 1936, covering the same claim and subject, the findings of the original Award (No. 85) were upheld but, as it appeared that the respective parties were unable to arrive at a satisfactory arrangement of the positions in question, certain action was ordered with respect to dovetailing the names of the dispatchers in the office at Salamanca into one common roster according to their seniority standing.

In support of their contention in the instant case as in Docket No. TD-77, Award No. 85, the Association quotes Rules 6 (a) and 9, and in addition specifies Rules 6 (b) and 8 of the agreement between the parties.

Rule 6 (a) of the agreement limits the seniority rights of employees to each dispatching office, or to the office in which the dispatcher is stationed, while 6 (b) establishes the time when seniority becomes effective.

Rule 8 defines the manner in which the seniority of individual dispatchers will be determined when two or more dispatching offices, involving two or more seniority districts, are combined; and specifies that re-arranged positions will be filled in accordance with ability and seniority and indicates that the ability of the dispatcher coupled with his seniority is to be determined by means of a Joint Conference between Superintendents and Committee representing the Train Dispatchers affected. Rule 9 defines the manner of handling and correcting, together with the dates of posting of a roster showing the seniority standing of Train Dispatchers.

In connection with the Award (No. 85) in case Docket TD-77 and the reference in the Award to "a joint conference between the Superintendent of the Carrier and the General Chairman of the American Train Dispatchers Association, or any other Committee appointed by him" the Board submits that nothing in the award was intended to change Rule 8 or its wording but that the reference was made solely to indicate individual principals of the

parties in calling together the collective Superintendents and Committees affected.

Insofar as the statement is made by the carrier with reference to two or more sets of dispatchers being located for operating reasons in the same office, with no change in their regular work, the Board submits that when two dispatching offices are combined under one head at one location, the fact of such combination, involving two or more seniority districts, or the combining of the work and forces of one dispatching office with that of another, would require the application of Rules 6 (a) and 8 of the existing agreement between the parties, even though there be no change in the character of the work performed, and the dispatchers continued to serve the same district as when located in separate offices.

So far as Rule 6 (b) of the agreement is concerned this rule provides for the date of seniority from the time service as train dispatcher is first performed, while Rule 9 provides for the preparation of a roster showing the seniority standing of train dispatchers in each dispatching office.

Under these conditions the Board reaffirms the Award rendered in Docket TD-77, Award No. 85, and insofar as this instant case is concerned the opinion of the Board is that the carrier in combining the offices indicated in this claim, with its modified agreement as stated in correspondence between the parties, without applying the terms specified in the rules cited, has violated the terms of the existing agreement between the Association and the carrier.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 evidence in this case tends to show that the claim of the Association, for the employees, be sustained with such modifications as have been agreed to between the parties.

AWARD

Claim of employees sustained except as modified by the petitioner in letters addressed to the Secretary of this Third Division on February 24th and May 14, 1937, and that any monetary loss sustained by the individual or individuals by reason of the rules not having been applied in accordance with the above outline be compensated by the carrier from the effective date of Award No. 85 in Docket TD-77.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 23rd day of September, 1937.