

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

MISSOURI PACIFIC RAILROAD COMPANY

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

- (a) The Missouri Pacific Railroad Company failed to comply with the intent of Rule 2 on the Appendix of the Agreement which the carrier and the American Train Dispatchers Association entered into as of August 1, 1945, when, for a ten-day period beginning November 22, 1945, the carrier used an official which position is not subject to the Agreement, instead of an available trick train dispatcher subject to the Agreement to perform the work of a chief train dispatcher (now titled division trainmaster on this property) which position is subject to the Agreement, and
- (b) the Missouri Pacific Railroad Company shall now pay to extra train dispatchers W. P. Rost and D. W. Wilson such amounts of money as represents the difference between the amounts they were paid for service on the days here in question and the amount they would have been paid if the carrier had complied with the intent of Rule 2 of the above mentioned Appendix.

EMPLOYES' STATEMENT OF FACTS: Effective August 1, 1945, the parties to this dispute entered into an agreement, known as the Appendix, which contains various rules, among which are the following:

- "1. Chief train dispatchers (now titled Division Trainmasters on this property) will be accorded two regularly assigned rest days per month and twelve days' vacation per annum with pay. When it is impracticable to accord them their relief days and they are required to work thereon, they shall be either paid therefor at pro rata rate or accorded accumulation of such time to be given at some later period within one year at the Carrier's option; and, further, that within sixty days subsequent to the Proclamation by the President of the United States of the cessation of hostilities, they shall be accorded one relief day per week with pay (leaving the annual vacation as at present). On such rest and vacation days, chief dispatchers' (now titled Division Trainmasters on this property) positions, if filled, will be filled from the dispatchers' roster, if there are men thereon available, and they will be paid at the rate of the position relieved.

OPINION OF BOARD: There is no distinguishing difference between the question here involved and that considered in Award 3710. Both involve vacancies, one permanent and the other temporary, under the same Agreements and life facts. What was said in Award 3710 is applicable here and controlling. We find the Carrier has not violated the effective Agreement.

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 employe involved in this dispute are respectively carrier and employe 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 Carrier has not violated the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of November, 1947.