

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Jay S. Parker, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION
MISSOURI PACIFIC RAILROAD COMPANY

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

1. The Missouri Pacific Railroad violated the intent of Article 1, Scope of its Agreement with the American Train Dispatchers Association, when on September 19, 20, 21, 22, 26, 27, 29 and 30 and on October 3, 4, 5, 6, 7, 11, 12, 13, 14 and 20, 1949, this Carrier operated the trains on the Crossett Lumber Company over this Carrier's Collinston subdivision, between Crossett Lumber Co. Connection and West Siding (dispatching territory included within that of the regular assignment of Claimants listed in below paragraph 2 hereof) between the hours of 6:01 A.M. and 6:01 P.M. without direction or supervision of any train dispatchers but, instead, by direction and authority of employes not subject to the Train Dispatchers' Agreement, and,
2. The Missouri Pacific Railroad Company shall now compensate the below listed Claimants for all time lost by them due to this Carrier's violation of the intent of said Article 1, viz.:

CLAIMANTS	LOCATION	NO. OF DAYS	DAILY RATE	TOTAL AMOUNT
C. C. Westmoreland	Monroe, La.	13	\$19.31	\$251.03— ¹
H. C. Wilson	" "	20	19.31	386.20— ²
T. H. Turner	" "	11	19.31	212.41— ³
D. D. LaCaze	" "	9	19.31	173.79

¹—Sept. 29, Oct. 12 and 13 also claimed under CLAIM—"C".

²—Sept. 19, 26, 29, Oct. 3, 4, 12, 13 also claimed under CLAIM—"C".

³—Sept. 19, 26, Oct. 3, 4 and 12 also claimed under CLAIM—"C".

EMPLOYEES' STATEMENT OF FACTS: An agreement on rules governing rates of pay, hours of service and working conditions of train dispatchers, between the parties to this dispute was in effect at the time this dispute arose. A copy thereof is on file with this Board and is, by this reference, made a part of this submission as though fully incorporated herein. The Scope of said Agreement pertinent to the instant dispute reads as follows:

"Article 1 (a) Scope—(Effective January 1, 1948):

This agreement shall govern the hours of service and working conditions of train dispatchers. The term 'train dispatcher,' as here-

except from date such claim is presented to an official of the railroad."

It is also the position of the Carrier that Article 1 of the agreement does not support the claims which the organization has presented to the Board. There is no requirement on the part of the railroad to provide train dispatching service when in the opinion of the responsible officers, train dispatching service is not needed. No train dispatching service was needed or required for the movement of one Crossett Lumber Company log train each day between Crossett Junction and Vaughn, a distance of seven miles, during the period operation of Missouri Pacific trains had been discontinued. The method of operation of trains on the lines of the Missouri Pacific Railroad is a matter to be determined solely by the officers of the railroad, and unless some dispatching service is required in such operation there is no requirement in Article 1 of the agreement with the Dispatchers to assign train dispatchers. To put it simply, if the railroad is willing to operate all of its trains under flag protection, or under protection of suitable rules, without direction of a train dispatcher, it is the right of the railroad to do so. Article 1 of the agreement with the Dispatchers' Organization does not guarantee that the railroad will require dispatching service for the movement of its trains.

Another matter of interest concerning the claim is the statement of the Dispatchers, in Paragraph 1 of the claim, that Crossett Lumber Company trains operated between the hours of 6:01 A.M. and 6:01 P.M. This is not supported by record, as no record was kept of the movement of Crossett Lumber Company trains. Then, we find the Employees making claim for a total of 53 days' pay for four claimants for the operation of one train on 18 days. The Carrier is unable to reconcile the number of days pay claimed with the number of days the trains were operated, neither is it able to reconcile the statement that such trains were operated between the hours of 6:01 A.M. and 6:01 P.M. It is, therefore, concluded that not only have these claims been presented to the Board improperly but the claims are so indefinite that it is almost impossible to make a clear submission and argument to the Board.

Attention is also directed to the notations opposite the claims, wherein the organization would link this claim with some other claim which it has identified as "Claim C."

The Board should refuse to docket this claim, but if same is docketed it should be declined forthwith.

(Exhibit not reproduced.)

OPINION OF BOARD: The facts of this case are similar to those involved in Award No. 5445, this day decided, the essential difference being that the claim is based on an alleged violation of Article 1, the scope rule, instead of an alleged violation of Article 5 (d), relating to Force Reduction, of the agreement between the parties. Here, as in the Award just mentioned the employees are seeking to piece meal what started out as a single dispute on the property and have this Board determine in twelve different cases, involving different rules of the same agreement, that could properly and would ordinarily be determined in one proceeding.

In Award No. 5445 under almost identical conditions and circumstances we held that where a single dispute was progressed on the property as a unit the Railway Labor Act contemplates and requires that the entire controversy be submitted to the Board in one proceeding in order that all issues therein involved can be determined with promptness and efficiency in accord with the intent and purpose of the Railway Labor Act. We also held that failure on the part of the employees to conform to that procedure required a dismissal of the claim without prejudice to their right to bring the entire dispute

to this Board in a single proceeding if in the exercise of future judgment they deem that course advisable.

Therefore based on what is said and held in Award No. 5445 we hold the instant case should also be dismissed in like manner.

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 claim is not presented to this Board in conformity with requirements of the Railway Labor Act.

AWARD

Claim dismissed without prejudice in accord with the Opinion and Findings of this Award and Award No. 5445, this day adopted.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 7th day of September, 1951.