

**Award No. 5676**

**Docket No. TD-5647**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Angus Munro, Referee**

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**PARTIES TO DISPUTE:**

**AMERICAN TRAIN DISPATCHERS ASSOCIATION**

**SACRAMENTO NORTHERN RAILWAY**

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

(a) The Sacramento Northern Railway, hereinafter referred to as the Carrier, did not properly apply the provisions of Agreement dated Chicago, Illinois, March 25, 1949, said agreement being by and between the participating carriers represented by Carriers' Conference Committee, and its employees represented by the American Train Dispatchers Association, to which Agreement Carrier was committed, when:

During a period between September 1, 1949 and December 9, 1950, both dates inclusive, the Carrier failed and refused to apply the below quoted portion of Article III, Section 1, of said March 25, 1949 Agreement to its chief train dispatcher position covered by Rule 6 (d) of the Schedule Agreement between the Carrier and its train dispatchers represented by the American Train Dispatchers Association, effective April 1, 1945, viz:

"All existing agreements providing for one (1) rest day per week shall be revised so that effective September 1, 1949, they shall provide for two (2) regularly assigned rest days per week. Such assigned rest days shall be consecutive to the fullest extent possible. The Carrier may assign non-consecutive rest days only in instances where consecutive rest days would necessitate working any train dispatcher in excess of five (5) days per week."

(b) Carrier's failure and refusal, prevented its extra train dispatchers from performing relief service on the position of chief train dispatcher, work to which they were entitled to perform under the provisions of Rule 8 (a), or failed to require an available regularly assigned trick or relief train dispatcher to perform relief service on the position of chief train dispatcher, when no extra train dispatcher was available, in accordance with the provisions of Rule 6 (a) of the agreement:

(c) Carrier shall now be required to compensate the extra train dispatcher who was entitled to the work, a day's pay at pro rata rate of the chief dispatcher's position, such daily rate to be computed in accordance with the provisions of Rule 23 of the agreement, for each sixth consecutive day on which the chief train dispatcher was required to perform chief dispatcher service, during a period between September 1, 1949 and December 9, 1950, both dates inclusive:

(d) In the absence of an extra train dispatcher, Carrier shall now be required to compensate the senior available regularly assigned trick train dispatcher a day's pay at pro rata rate of the chief dispatcher's position, such daily rate to be computed in accordance with the provisions of Rule 23 of the agreement, for each sixth consecutive day on which the chief dispatcher was required to perform chief dispatcher service, during a period between September 1, 1949 and December 9, 1950, both dates inclusive:

(e) The Carrier shall comply with the requirements of that part of the Chicago Agreement dated March 25, 1949, which is quoted in paragraph (a) of this claim, by also revising the second paragraph of Rule 6-(d) of the existing agreement.

**EMPLOYEES' STATEMENT OF FACTS:** On or about July 26, 1948, the American Train Dispatchers Association served notices upon certain Carriers, among them the Sacramento Northern Railway, requesting changes in certain rules and working conditions then in effect pursuant to the then existing schedule, agreements and the provisions of the Railway Labor Act, as amended. Required conferences and negotiations were thereafter had on the respective properties without agreement being reached with respect to said notices. Thereafter, certain Carriers, not including the Sacramento Northern Railway, designated certain committees to act for and in their behalf in negotiating an agreement to be applicable to all Carriers, parties to such negotiations. The Sacramento Northern Railway, although it denied the request, executed an agreement with representatives of the American Train Dispatchers Association under which it obligated itself to apply the agreement resulting from the negotiations between the American Train Dispatchers Association and Carriers represented by the above mentioned Committees. (See Exhibit TD-1.)

The authorization of the committee representing carriers in that group, commonly known and referred to as "Western Carriers," provided that:

"Authorization is co-extensive with the provisions of current schedule agreements applicable to the employees represented by the American Train Dispatchers Association."

Thereafter, on March 25, 1949, at Chicago, Illinois, an Agreement (hereinafter referred to as the "Chicago Agreement") was entered into by and between the duly designated and authorized Committees. Said Chicago Agreement was and is in settlement of the dispute growing out of the aforesaid notices served by the claimant on or about July 26, 1948. Article V of the Chicago Agreement provides:

"This agreement is in settlement of the dispute growing out of notices served on the carriers listed in Exhibit A, B and C on or about July 26, 1948, and the notices served by the carriers on the employees represented by the AMERICAN TRAIN DISPATCHERS ASSOCIATION on or about July 26, 1948, and shall be construed as a separate agreement by and on behalf of each of said carriers and its said employees; and shall remain in effect until changed or modified in accordance with the provisions of the Railway Labor Act, as amended."

Among the provisions of the Chicago Agreement, the first paragraph of Article III, Section 1, is particularly material to the claim here involved. Its provisions are set out in the foregoing Statement of Claim.

In addition to the Chicago Agreement, a schedule agreement is also in existence between Carrier and Claimant. Said schedule agreement (hereinafter referred to as the "Agreement") bears the effective date of April 1, 1945 and is separate and apart from, and completely independent of, any other agreement between the American Train Dispatchers Association and any other party or Carrier. From time to time since that date the said Agreement has been

Thirdly, the organization in this instance, lists no specific claimants, the claim being only for "an extra train dispatcher" or "the senior available regularly assigned trick train dispatcher." Your Honorable Board has stated that it is not Carrier's obligation to develop the claimants.

It is Carrier's position that this claim should be denied. It is in violation of:

- (1) Letter agreement between the parties; and
- (2) Fundamental rule of law prohibiting splitting a cause of action.

All of the above has been presented to the Employees.

(Exhibits not reproduced)

**OPINION OF BOARD:** This is a companion case to Docket TD-5645, Award 5674 and Docket TD-5646, Award 5675. Under the authority thereof, an affirmative Award is in order.

**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 facts of record warrant an affirmative finding.

#### **AWARD**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST:** A. Ivan Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 29th day of February, 1952.