

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis B. Murphy, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

THE GULF, COLORADO AND SANTA FE RAILWAY COMPANY

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

(a) The Gulf, Colorado and Santa Fe Railway Company, hereinafter referred to as "the Carrier," violated the currently effective Agreement between the parties to this dispute, including Article II, Sections 10-b and 14, when on Sunday, May 2, 1954, it failed to use senior unassigned Train Dispatcher J. W. Fewell to fill a vacancy in the Assistant Chief Dispatcher position beginning at 9:00 P. M., Sunday, May 2, 1954, resulting in Carrier's failure to use regularly assigned Train Dispatcher W. M. Vanderburg on his regular position beginning at 11:00 P. M., Sunday, May 2, 1954.

(b) For the violation identified in paragraph (a) hereof, Carrier shall now compensate regularly assigned Train Dispatcher W. M. Vanderburg, a day's pay at pro rata rate for Sunday, May 2, 1954.

EMPLOYEES' STATEMENT OF FACTS: Mr. L. N. Andrews was, on May 2, 1954, regularly assigned to Assistant Chief Dispatcher Position No. 50, in Carrier's Galveston, Texas office, hours 9:00 P. M. until 5:00 A. M., daily except Friday and Saturday, rest days. On that date, May 2, 1954, Mr. Andrews was used to fill the position of Chief Train Dispatcher, from 7:00 A. M. until 6:00 P. M., a position not covered by the Agreement.

Senior unassigned train dispatcher, Mr. R. E. Johnson, was instructed to fill the vacancy thus created in Position No. 50 of Assistant Chief Dispatcher.

Mr. J. W. Fewell, an unassigned train dispatcher junior to dispatcher R. E. Johnson, was instructed to furnish rest day relief for regularly assigned train dispatcher W. M. Vanderburg, beginning 11:00 P. M., Sunday, May 2, 1954.

constitutes a duplication of penalty claims for the one and same alleged violation. This handling on the part of the Employees is emphatically protested by the Carrier, as the Third Division has consistently held that it will not allow claims for a double penalty. See Awards 3316, 5953 and many others.

In conclusion, the Carrier respectfully reasserts that the Employees' claim in each of the questions at issue in the instant dispute is entirely without support under the governing agreement rules in effect between the parties hereto and should, for the reasons previously expressed herein, be denied in its entirety.

The Carrier is uninformed as to the argument the Employees will advance in their ex parte submission, and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are necessary in reply to the organization's ex parte submission or any subsequent oral arguments or briefs submitted by the petitioning organization in this dispute.

All that is contained herein is either known or available to the Employees or their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Our Award 8911 of this date, announced herewith, is determinative of the Claim in the instant case as it involves the same parties and same rules and issues.

The Claim is therefore denied.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 5th day of August, 1959.