

Award No. 13321

Docket No. TD-14654

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

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

(a) The Atchison, Topeka and Santa Fe Railway Company (hereinafter referred to as "the Carrier") violated the currently effective agreement between the parties to this dispute, particularly Article II, Sections 10-6 and 14, and Article IV, Sections 1 (b) and 7, when it failed to use Extra or Unassigned Train Dispatcher E. W. Vance to perform rest day relief service in its Clovis, New Mexico, train dispatching office on Friday, June 22, 1962.

(b) The Carrier shall now be required to compensate Extra or Unassigned Train Dispatcher E. W. Vance one day's compensation as train dispatcher for Friday, June 22, 1962.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement between the parties in effect, copy of which is on file with your Honorable Board, and the same is incorporated as a part of this submission as though fully set out herein.

For ready reference, the Agreement rules referred to in the foregoing Statement of Claim are here quoted in pertinent part:

Article II, Section 10-b:

"Section 10-b. . . . A temporary vacancy known to be of more than seven (7) calendar days' duration will be made known to the train dispatchers in the office and will be filled by permitting regularly assigned train dispatchers to place themselves, in accordance with their seniority, on this and any other vacancy, other than that of selected assistant chief dispatchers, resulting from such placement; any such temporary vacancy which a regularly assigned train dispatcher does not place himself to be filled by the senior qualified and available unassigned train dispatcher who will not thereby have claim to work more than five (5) consecutive days. . . ."

the claim of the Employees in the instant dispute is wholly without support under the governing agreement rules and should be denied, it is the respondent Carrier's further position that the Petitioner's claim for penalties in behalf of unassigned train dispatcher E. W. Vance on June 22, 1962 in the instant dispute is, when considered in the light of the Petitioner's claim for penalties in behalf of unassigned train dispatcher K. L. Miller on June 22, 1962, which was also appealed to the Third Division by the Petitioner's President, Mr. R. C. Coutts, in letter dated December 30, 1963, an obvious claim for duplicate or pyramided penalties in behalf of two employees for the same alleged violation, which the Third Division has consistently refused to consider. Awards Nos. 3146, 4710, 5333, 5652, 6021, 10861 and others.

In conclusion, the respondent Carrier respectfully reasserts that the claim of the Employees in the instant dispute is wholly without support under the rules of the current Train Dispatchers' Agreement and should be declined for the reasons expressed herein.

OPINION OF BOARD: In this claim, Vance was filling the temporary vacancy on Job 9115. He worked on that vacancy from June 3 to June 29, 1962. Therefore, on the date in question, June 22, 1962, he was filling an uncompleted vacancy, and was therefore not available on the rest day of that vacancy, to fill a temporary vacancy on another position.

See Award 9174.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreement was not violated.

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AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 25th day of February 1965.