

Award No. 16836
Docket No. TD-17617

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

SEABOARD COAST LINE RAILROAD COMPANY

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

(a) The Seaboard Air Line Railroad Company, (now Seaboard Coast Line Railroad Company) hereinafter referred to as "the Carrier" violated the Agreement between the parties, Articles III(a) and IV(h) in particular, in depriving Train Dispatcher H. C. Bizzell of service which he was entitled to perform on April 7, 1967, one of the individual claimant's assigned weekly rest days.

(b) Because of said violation the Carrier be required to compensate Claimant Bizzell one day's compensation at time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: At the time the instant claim arose there was an Agreement in effect between the Seaboard Coast Line Railroad Company and the claimant organization, a copy of which should be on file with this Board. Said Agreement is incorporated herein as though fully set out.

(NOTE: On or about July 1, 1967, pursuant to authorization by the Interstate Commerce Commission, the former Seaboard Air Line Railroad Company and the former Atlantic Coast Line Railroad Company were merged into the Seaboard Coast Line Railroad Company. The merged company assumed all agreements in effect on the predecessor Carriers. A new agreement was negotiated with the successor Carrier, in much the same terms as that formerly in effect, and which former Agreement is here before the Board.)

For the Board's ready reference, Article III(a) and IV(h) of the Agreement referred to in the Statement of Claim and the first paragraph herein are here quoted in pertinent part:

"ARTICLE III.

(a) Rest Days.

Each regularly assigned train dispatcher will be entitled and required to take two (2) regularly assigned days off per week as

The arrangements which took place on April 7, 1967, involved two regularly assigned train dispatchers and one extra train dispatcher. These employees are identified as follows:

Name	Seniority Date
J. F. Garner (Extra)	4-10-66
J. S. Morris (Regular, also Local Chairman)	4 -7-44
H. C. Bizzell (Regular, also claimant)	12-19-44

The claimant, H. C. Bizzell, was regularly assigned in the Savannah train dispatching office to the position covering territory known as the E C Line, working 11:30 P. M. to 7:30 A. M., Sunday through Thursday, rest days Friday and Saturday.

Mr. J. S. Morris (Local Chairman of the Dispatchers craft or class) was regularly assigned in the same office to a relief assignment working Sunday through Thursday, rest days Friday and Saturday.

On Friday, April 7, 1967, a rest day of both above regularly assigned employees, there was need to fill the temporary dispatcher position on territory known as North End-Alabama West District. As information, this temporary position was established to assist the regular dispatcher position covering that territory for the reason that much additional traffic was temporarily detoured via that line from the E C Line as result of ship accident which caused the Carrier's Savannah River Bridge on the E C Line to be out of service for a number of months. On this date there was also need to fill the rest day of Mr. Bizzell's position going on duty at 11:30 P. M. There was only one extra dispatcher available (J. F. Garner) and since he was not experienced or qualified enough to handle the heavy traffic on this North End-Alabama West District, the Chief Dispatcher arranged for Mr. Morris, who was experienced and qualified to protect the 8:45 P. M. position, holding the extra man to fill the less responsible 11:30 P. M. position.

This arrangement was in accordance with established practice and in accordance with rules of the current agreement as evidenced by the fact that the Local Chairman was a party to and acquiesced in the arrangement.

As result of this necessary arrangement, Train Dispatcher Bizzell submitted claim on his own behalf for one day at time and one-half alleging that if Garner had been used on the 8:45 P. M. assignment, he would have been called to work his assigned rest day on April 7, 1967. This claim was processed up to and including Carrier's Director of Personnel whereupon it was formally declined by letter of August 2, 1967, with conferences held thereon prior and subsequent to Carrier's letter of declination.

There was no claim submitted by or on behalf of Extra Dispatcher Garner.

OPINION OF BOARD: The Claimant herein was, on the date involved, regularly assigned to "E. C." train dispatching district, in the Savannah dispatching office, with hours 11:30 P. M. to 7:30 A. M., and with Fridays and Saturdays as assigned weekly rest days. Relief service for this position was not included as part of an assigned relief position and relief service on the position was performed by extra train dispatchers. The claim herein arose in connection with the relief of Claimant on Friday, April 7, 1967.

There was one extra train dispatcher, J. F. Garner, available. However, he had been filling a temporary train dispatching position for several days, with hours 8:45 P. M. to 4:45 A. M., and rest days Sunday and Monday. The Petitioner states that extra dispatcher Garner worked the temporary position nine days prior to and six days subsequent to the date here involved.

On the date involved in the claim, extra dispatcher Garner was withheld from the temporary position on which he had been performing service, and was used to relieve the Claimant on the 11:30 P. M. to 7:30 A. M. position. Regularly assigned dispatcher J. S. Morris, who was also observing his assigned weekly rest day, was used on the temporary 8:45 P. M. to 4:45 A. M. position.

Article IV(h)1 of the applicable Agreement reads:

"(h) Extra Work and Travel Pay.

1. When an extra train dispatcher is needed, the senior extra dispatcher shall be called and he shall be required to report, unless on leave of absence or prevented by sickness or justifiable reasons, which reasons must be given to the Chief Dispatcher in writing."

Both parties contend that the requirements of Article IV(h)1 are clear and unambiguous. We agree. It provides that when an extra train dispatcher is needed, the senior extra train dispatcher shall be called and shall be required to report. Extra train dispatcher Garner had been filling the temporary position with hours 8:45 P. M. to 4:45 A. M. The Carrier's action would have been proper if that temporary position had not been filled on Friday, April 7, but the Carrier violated Article IV(h)1 when it failed to use extra dispatcher Garner on the 8:45 P. M. temporary position. The claim will be sustained.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of December 1968.

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