



Award Number 17773

Docket Number TD-18268

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, 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 Coast Line Railroad Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, Article IV(h) (1), paragraph 2, when on June 29, 30 and July 1, 1968, it failed to require the senior available extra train dispatcher to perform extra train dispatcher work.
- (b) The Carrier further violated the agreement, Article III (a), when it required regularly assigned train dispatcher F. W. Peacock to work his assigned rest day on his assigned dispatching territory, Saturday, June 29, 1968, and required regularly assigned train dispatcher R. A. Huey to work his assigned rest day on his assigned dispatching territory, Sunday, June 30, and Monday, July 1, 1968, when no unavoidable emergency existed.
- (c) Because of these violations the Carrier shall now compensate the senior available extra train dispatcher, W. M. Saturday (hereinafter referred to as "the Claimant"), for three days June 29, 30, and July 1, 1968, at the daily rate of trick train dispatcher.

EMPLOYEES' STATEMENT OF FACTS: There is an Agreement in effect between the parties, a copy of which is on file with this Board. By this reference the said Agreement is incorporated into and made a part hereof, as though fully set out. For the Board's ready reference Article IV(h) (1), the Agreement rule here particularly involved, is here quoted in full text:

"(h) EXTRA WORK

(1) Train dispatcher extra boards shall be established by the Company in each dispatching office. Train dispatchers who are not regularly assigned as such shall select the extra board of their choice by notifying the appropriate Division Superintendents, providing a copy thereof to the General Chairman and the involved Office Chairmen. A train dispatcher who is not regularly assigned and who fails to select an extra board of his choice will be considered as being assigned to the extra board attached to the office in which he last performed service as train dispatcher.

and Article IV(h)(1), paragraph 2, reading:

'Extra train dispatchers placing themselves on the extra board of their choice, after having had a sufficient time to qualify, will be required to perform, in seniority order, all extra work for which available. Failure to perform extra work for which available. Failure to perform extra train dispatcher service in accordance with this Article IV(h) will result in forfeiture of train dispatcher seniority in accordance with Article IV(g).'

will show the specific absence of penalty provision requiring payment as claimed.

"The make-whole payment, as was made here, is exactly in accordance with that previously accepted as precedent by the Organization. Attached hereto is copy of correspondence between your Organization and former Seaboard Air Line Railroad dealing with the same subject matter. Please note Mr. V. F. Williams', then General Chairman and now Vice President, statement reading:

'The current agreement was violated and extra dispatcher H. V. Frick is now entitled to the difference in what he earned as telegrapher on July 3, 1964, and what he would have earned had he been called in accordance with the current agreement to protect the third trick dispatcher's position Atlanta-Birmingham sub divisions on that date.'

with which we agreed when we allowed the claim. The now involved current agreement rules have not changed this interpretation. The fact that we made a subsequent erroneous payment in the claim of B. T. Phillips, January 12, 1968, at Tampa does not change the rules or interpretation thereof. In this respect your attention is invited to Third Division Denial Awards 4534 and 6773.

"For the reasons stated in conference and elaborated on herein, the claim of Mr. Saturday is without merit and, therefore, it is declined."

The exchange of correspondence between former General Chairman Williams, from which is quoted a portion of the penultimate paragraph of the above-quoted letter, and former Seaboard Air Line Director of Personnel Duffer, dated September 5 and October 27, 1964, is attached hereto as Carrier's Exhibits "A" and "B".

(Exhibits Not Reproduced)

OPINION OF BOARD: The facts and circumstances in this claim are similar to those in Award 17772. The principles and findings adopted in Award No. 17772 are applicable to this claim and are affirmed.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of March 1970.