

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION**

John H. Dorsey, 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 thereof, when on August 10, 1968, it failed to require the senior available extra train dispatcher to perform extra train dispatcher work.

(b) Because of said violation, the Carrier shall now compensate the senior available extra train dispatcher, D. W. Milton (hereinafter referred to as "the Claimant"), for one day's pay at trick train dispatcher daily rate for the date August 10, 1968.

**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 said Agreement is incorporated herein and made a part of this submission, as though fully set out.

For the Board's ready reference, Article IV(h)(1), the Agreement rule primarily involved is below quoted in full:

**"ARTICLE IV.****(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.

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

effective supplements are on file with your Board and by reference thereto are made a part of this submission.

The need arose in the Jacksonville Division train dispatching office for service of an extra train dispatcher to perform extra train dispatcher work on first trick on August 10, 1968. Because of inability to contact the senior extra train dispatcher, as late as 9:10 P.M., on August 9, 1968, Mr. B. D. Shaw, Assistant Chief Dispatcher, notified the regular first trick west end dispatcher, Mr. O. K. Partridge, to work his rest day. Because Mr. Partridge was unfamiliar with the east end district, Train Dispatcher M. E. Gilmore agreed to work for Train Dispatcher Chinnis, the absent train dispatcher, on east end, thus allowing Mr. Partridge to work his rest day on his regular west end district on Saturday, which position on Saturdays is worked by relief Dispatcher Gilmore.

Claimant Milton in this case actually worked his regular position, in another craft, as telegraph operator, at Jacksonville at 11:00 P.M., August 9, and was due to go off duty at 7:00 A.M., August 10, 1968. He was unavailable, therefore, because of the Federal Hours of Service Law, to perform train dispatcher service on the morning of August 10, 1968.

General Chairamn H. T. Story, of the American Train Dispatchers Association, filed claim in behalf of Mr. Milton for compensation at straight time rate for one day as train dispatcher, contending Carrier failed to require him to perform extra train dispatcher work. The claim was handled in accordance with the current agreement, and was declined by the Carrier's highest officer designated to handle such matters. Pertinent correspondence with regard to this claim is attached to this submission as Carrier's Exhibits A through H, inclusive.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The claim alleges that the Carrier violated the effective Agreement between the parties, Article IV(h)(1), paragraph 2 thereof, when on August 10, 1968, it failed to require the senior available extra train dispatcher to perform extra train dispatcher work. The rule referred to provides:

"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 train dispatcher service in accordance with this Article IV(h) will result in forfeiture of train dispatcher seniority in accordance with Article IV(g)."

The record shows that the need arose in Carrier's Jacksonville Division train dispatching office for the services of an extra train dispatcher to work first shift on August 10, 1968. H. M. Lee was the senior extra train dispatcher. Between 4:15 P.M. and 9:10 P.M., August 9, 1968, efforts were made to contact Lee, and, upon being unable to contact him by 9:10 P.M., instructions were issued that one of the regularly assigned train dispatchers work on his assigned rest day.

The Petitioner contends that when it was determined that extra train dispatcher Lee was not available for service on first shift on August 10, 1968,

the Claimant was then the senior available extra train dispatcher, but no attempt was made to use him as train dispatcher or to relieve him from his regular assignment as telegrapher on the third shift at West Jacksonville yard, starting at 11:00 P. M., August 9, in order to be available to work as dispatcher on the first shift August 10, 1968.

In the handling of the dispute on the property, the Carrier contended that Lee was the senior extra dispatcher until 7:00 A. M., Saturday, August 10, 1968. The record shows, however, that at 9:10 P. M., August 9, the conclusion had been reached that Lee would not be available to work the first shift on August 10. When that determination was made, the Claimant then became the senior extra train dispatcher, but the record does not indicate that any attempt was made to use him as dispatcher on first shift on August 10. The Board concludes that the Agreement was violated, and the claim will be sustained to the extent of allowing Claimant the difference between what he earned on his regular assignment as telegrapher and what he would have earned if used as train dispatcher on August 10, 1968. See recent Third Division Awards 17772 and 17773, involving the same parties.

**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 to extent shown in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1970.