Award No. 18429
Docket No. TD-18775

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert M. O'Brien, Referee

PARTIES TO DISPUTE:

AMERICAN TRAIN DISPATCHERS ASSOCIATION

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(a) The St. Louis-San Francisco Railway Company (hereinafter "the Carrier") violated the effective Agreement between the parties, Article III (a) thereof in particular, by its failure and declination to compensate Train Dispatcher J. O. Atkins at time and one-half for service performed on May 13, 1969.

(b) Carrier shall now additionally compensate Claimant Atkins for the difference between pro rata rate and time and one-half rate applicable to Chief Dispatcher position for rest day service performed on May 13, 1969.

EMPLOYES' STATEMENT OF FACTS: The existing Agreement between the parties is incorporated herein by this reference.

For the Board's ready reference Article III (a) of said Agreement is here quoted in full:

"(a) Rest Days

1. Each regularly assigned train dispatcher will be entitled and required to take two regularly assigned days off per week as rest days, except when unavoidable emergency prevents furnishing relief. Such assigned rest days shall be consecutive to the fullest extent possible. Non-consecutive rest days may be assigned only in instances where consecutive rest days would necessitate working any train dispatcher in excess of five days per week. Any regularly assigned train dispatcher, who is required to perform service on the rest days assigned to his position, will be paid at rate of time and one-half for service performed on either or both of such rest days.

2. Extra train dispatchers who are required to work as a train dispatcher in excess of five consecutive days shall be paid one and one-half times the basic straight time rate for work on either or both the sixth or seventh days but shall not have the right to claim work on such sixh or seventh days.

Sun.	—	"	4	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Mon.	—	"	5	
Tues.	—	"	6	
Wed.	—	"	7	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Thurs.	—	"	8	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Fri.	—	"	9	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Sat.	—	"	10	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Sun.	—	"	11	Position # 5—Night Chief Dispatcher— 3:30 P. M. - 11:30 P. M.
Mon.	—	"	12	
Tues.	—	"	13	Position # 7—Excepted Chief Dispatcher
Wed.	—	"	14	Position # 7—Excepted Chief Dispatcher
Thurs.	—	"	15	Position # 7—Excepted Chief Dispatcher
Fri.	—	"	16	Position # 7—Excepted Chief Dispatcher
Sat.	—	"	17	
Sun.	—	"	18	Position # 44—Trick Train Dispatcher 1:00 P. M. - 9:00 P. M.

The Claimant performed compensated service on five days and was off two days in each of the three work weeks.

The work week assignment of Night Chief Dispatcher Position #5 was then Wednesday through Sunday with Monday and Tuesday rest days. The work week assignment of Excepted Chief Dispatcher Position #7 was Monday through Friday with Saturday and Sunday rest days. The three seven-day chief dispatcher positions in the consolidated and centralized train dispatching office at Springfield, Missouri are excepted from the scope and other provisions of the Agreement, and, as such, including Position #7, do not have daily assigned hours but are day time positions.

The claim is that the Claimant be additionally compensated at time and one-half rate less straight time rate allowed for working Excepted Chief Dispatcher Position #7 on Tuesday, May 13, 1969.

OPINION OF BOARD: The parties, the issues, and the Agreement involved herein are the same as were involved in Award 18418. There the Board held that the record was void of any correspondence showing what issues or contentions were actually raised on the property. Inasmuch as the letter of February 20, 1952, marked "Exhibit TD-1" was crucial to the determination of the dispute, as it is here, the Board remanded the dispute to the property for further proof as to whether or not said "Exhibit TD-1" was actually discussed and raised on the property.

We do not find Award 18418 to be in palpable error. It is controlling herein and the claim is to be remanded to the property for the reasons stated therein.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The Claim be remanded to the property in accord with the Opinion.

AWARD

Claim remanded to the property in accord with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1971.

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