

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19700
Docket Number TD-19818

Frederick R. Blackwell, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Western Maryland Railway Company

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

(a) The Western Maryland Railway Company (hereinafter referred to as "the Carrier") violated the effective Agreement, Article 5(c) thereof in particular, when on December 25, 1971, the Carrier did abolish the position of Train Dispatcher 8:00 a.m. to 4:00 p.m. on the East Sub Division, Eastern Region, without giving the required 48 hours advance notice required under said Agreement.

(b) Carrier shall now compensate A. M. Walter in the amount he would have earned had the Carrier not violated the Agreement as stated above.

OPINION OF BOARD: This dispute arose under Agreement between the parties effective May 1, 1945.

The claimant, Extra Train Dispatcher A.M. Walter, was called to fill the vacation vacancy of a regularly assigned first trick train dispatcher's position in the Carrier's Hagerstown, Maryland train dispatching office for the period December 24-28, 1971. On December 24, 1971 the Chief Train Dispatcher determined that the position for which claimant was called would not have to handle any trains on Christmas day and he notified claimant his services would not be needed on the Hagerstown position on Christmas day. The claimant was offered the opportunity to work another train dispatcher position on Christmas day, but he preferred to have the holiday off.

The claim is that these facts constituted a violation of Article 5(c) of the Agreement which reads as follows:

"REDUCING FORCES

"(c) At least forty-eight (48) hours' advance notice will be given train dispatchers of reduction in force."

There was a one day blanking of a position at Hagerstown; therefore the first trick dispatcher force was reduced from three to two dispatchers on Christmas day. The vacation vacancy, for which claimant had been called, was not worked. However, the claimant was offered work on another position which he declined because he preferred to have the holiday off. Thus claimant's not working on Christmas day resulted from his own action and, consequently, we do not believe his Agreement rights can be said to have been prejudiced by Carrier's action. In sum, the record shows the claimant did not lose any work because of Carrier's action and, accordingly, there is no basis for his claim.

We have studied all of the numerous Awards cited by the parties and we believe that our rulings herein are not inconsistent with any of them.

For the above reasons we shall deny the claim.

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:


Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1973.