

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22491
Docket Number TD-22392

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
(
(Illinois Central Gulf Railroad

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

(a) The Illinois Central Gulf Railroad (GM&O) (hereinafter referred to as "the Carrier"), violated the Memorandum of Agreement between the Gulf, Mobile and Ohio Railroad Company and its Employees represented by the American Train Dispatchers Association dated August 16, 1957, by its failure to properly compensate combination night chief-trick train dispatchers in its New Albany, Mississippi train dispatching office on May 26, 1973 and all subsequent dates on which the night chief dispatcher position was not filled.

(b) For the above violation, the Carrier shall now be required to compensate each combination night chief-trick train dispatcher in the amount of two dollars (\$2.00) for each day said violation occurred, commencing May 26, 1973 and continuing until the violation ceases.

(c) The Carrier shall arrange for a joint check of its payroll records to determine the names of individual claimants for each day of said violation.

OPINION OF BOARD: In mid-May of 1973, Carrier consolidated its Bogalusa Train Dispatching Office with its New Albany Office. In addition to positions of Chief Dispatcher, first, second and third trick dispatcher and regular relief, Carrier established a Night Chief Dispatcher position on five days per week. The new position assumed the duties of preparing two reports (one formerly prepared by the Second Trick Dispatcher and one by the Third Shift man). On the two days when there was no Night Chief, the second and third trick dispatchers continued to prepare the reports.

Effective January 31, 1975, the Night Chief Dispatcher position was abolished and preparation of the reports reverted to the trick dispatchers.

The Claimants argue that a 1957 Memorandum of Agreement provides for a combination Night Chief-Trick Dispatcher who is to receive \$2.00 per day over daily Trick Dispatcher rate, and this claim requests compensation pursuant to that memo for time since the Night Chief Dispatcher's position was abolished, inasmuch as the reports "...relate directly to the supervision of the handling of trains, as opposed to records incident to the work of trick train dispatchers..."

Carrier asserts that when the Night Chief position was abolished, the work was returned to the Trick Dispatchers - who, incidentally, had performed the work on the Night Chief's rest days without interruption. Carrier also notes that no claim for increased compensation was ever progressed while Trick Dispatchers performed the function two days per week, and in fact, a claim was submitted only after the position was abolished.

Without immediate regard to Carrier's contentions of "laches", inapplicable agreement, etc., we do not find that the Claimants have satisfied the burden of proof. Even disregarding the fact that the work was returned, in toto, to those who previously performed it, the record as established on the property fails to show that the type of work involved was more than the record-keeping referred to in Article 1(c).

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

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That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A.W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1979.