

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 27580
Docket No. TD-26790
88-3-85-3-546

The Third Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

(American Train Dispatchers Association
PARTIES TO DISPUTE: (
(Seaboard System Railroad

STATEMENT OF CLAIM: "Claims in behalf of various train dispatchers of the Waycross Office on various dates for the difference between their present rate of pay and that of Night/Assistant Chief Dispatcher as a result of being required to perform duties of the positions of Night/Assistant Chief Dispatcher. The claimants cite letter of December 17, 1982 File F-2, as support for the claim.

CARRIER FILE 10-(83-22)

<u>Claimant</u>	<u>Claim dates</u>
G. A. Logan	June 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30; July 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28 and 31; August 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30 and 31; September 4, 5, 6, 7, 8, 11, 12, 15, 18, 13, 14, 17, 20, 21, 22, 25, 26, 27, 28 and 29; October 3, 1983.
L. Williamson	June 2, 4, 5, 3, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27 and 30; July 29, 31; August 1, 5, 6, 7 and 8, 1983.
L. H. Glass	June 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29 and 30; July 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30; August 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 29, 30 and 31; September 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29 and 30; October 1, 1983.

H. A. Clifton June 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19,
20, 21, 22, 25, 26, 27, 28 and 29;
July 1, 3, 4, 5, 6, 11, 12, 13, 16, 17, 18, 19,
20, 21, 24, 25, 26, 27, 28 and 30;
August 1, 2, 6, 7, 8, 13, 14, 15, 16, 17, 22,
23, 24, 25, 27, 28, 29, 30 and 31;
September 3, 4, 5, 6, 7, 10, 11, 13, 14, 17, 18,
19, 20, 21, 24, 25, 26 and 28;
October 1, 2 and 3, 1983.

G. D. Weatherington June 1, 3, 10, 11, 16, 17, 18, 24 and 25;
July 8, 9, 10, 14, 15, 16, 17, 22, 24, 28, 29
and 31;
August 1, 3, 5, 12, 14, 19, 24, 26, 28, 30 and
31;
September 2, 9, 10, 16, 20, 21, 22, 23, 24 and
30.
October 1, 1983.

CARRIER FILE 10-(83-29)

<u>Claimant</u>	<u>Claim date</u>
J. O. Howard	June 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29 & 30, 1983.
C. M. Smith	September 1, 2, 3, 4, 5, 8, 9, 10, 12, 15, 16, 17, 18, 19, 20, 22, 24, 25, 26 and 29; October 1, 2, 3, 6, 7, 8, 9, and 10, 1983;
G. D. Morrison	June 2, 3, 4, 5, 7, 8, 9, 10, 14, 15, 16, 17, 21, 22, 23, 24, 25, 28, 29 and 30; July 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 28 and 29; August 1, 2, 3, 4, 5, 9, 11, 15, 16, 17, 18, 20, 21, 26, 27, 29 and 31; September 1, 9, 10, 11, 15, 18, 23, 24 and 30; October 1, 7, 13 and 15, 1983;

CARRIER FILE 10-(84-4)

<u>Claimant</u>	<u>Claim dates</u>
H. A. Clifton	October 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, & 31;

November 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15,
16, 19, 20, 21, 22, 23, 26, 27, 28, 29,
& 30;
December 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17,
18, 19, 24, 25, 26, 27, 28, & 31, 1983;
January 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15,
16, 17, 18, 21, 22, 23, 24, 25, 28, 29,
30, & 31;
February 1, 1984.

G. A. Logan

October 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18,
19, 20, 23, 24, 25, 26, 30, & 31;
November 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15,
16, 17, 20, 21, 22, 23, 24, 27, 28, 29, &
30;
December 1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15,
18, 19, 20, 21, 22, 25, 26, 27, 28, &
29, 1983
January 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16,
17, 18, 19, 22, 23, 24, 25, 26, 29, 30, &
31, 1984;

L. H. Glass

October 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18,
19, 20, 21, 22, 25, 26, 27, 28 & 29;
November 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15,
16, 17, 18, 19, 22, 23, 24, 25, 26, 29, &
30;
December 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15,
16, 17, 20, 21, 22, 23, 24, 27, 28, 29,
30, & 31, 1983;
January 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17,
18, 19, 20, 21, & 31, 1984.

G. D. Morrison

November 3, 10, 15, 16, 17, 18, 19, 24, & 25;
December 2, 7, 8, 9, 11, 13, 14, 15, 17, 19, 20,
21, 22, 26, 28, & 29, 1983;
January 3, 4, 5, 27, 30, & 31, 1984.

L. Williamson

August 11, 12, 13, 14, 15, 18, 19, 20, & 22;
November 4, 5, 6, 7, 10, 11, 13, 14, 18, 19, 20,
23, 25, 26, 27, 28, & 31, 1983;
December 1, 2, 4, & 5, 1983;
January 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16,
19, 20, 21, 22, 23, 26, 27, 28, 29, & 30,
1984.

G. D. Wetherington

October 14, 15, 26, 28, & 29;
November 4, 5, 11, 12, 18, 19, 25, 28 & 27;
December 7, 8, 14, 16, 17, 18, 23, 27, & 30,
1983;
January 4, 6, 11, & 18, 1984.

CARRIER FILE (10-84-8)

<u>Claimant</u>	<u>Claim dates</u>
H. A. Clifton	March 24, 25, 26, 27, 28, & 31; April 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30; May 1 & 2; February 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 28 & 29; March 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, & 21, 1984.
L. H. Glass	January 24, 25, 26, 27, 28; February 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, & 29; March 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, & 31; April 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, & 28, 1984.
L. Williamson	February 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27; March 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, & 31; April 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, & 30, 1984.
G. A. Logan	February 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, & 29; March 1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, & 29; April 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, & 30, 1984.
G. D. Wetherington	February 3, 22, 24, & 26; March 3, 4, 9, 16, 17, 18, 19, 20, 23, 27, 28, 30, & 31, 1984.
G. D. Morrison	February 2, 8, 10, 16, 19, 24, 25, & 26; March 2, 6, 8, 21, 22, 25, & 30, 1984."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On December 17, 1982, the Organization's General Chairmen were advised by the Carrier's Assistant Vice President-Labor Relations of various "Operating Division realignments (which) will take place January 1, 1983 on all but the Evansville, Louisville and Corbin Divisions" of the Seaboard Coast Line Railroad and the Louisville and Nashville Railroads, since merged into a new corporation known as the Seaboard System Railroad, since merged into CSX Transportation, Inc. After outlining various details of the realignments this letter states, in pertinent part:

"At or about the time the SCL Division Superintendents' offices are abolished at Rocky Mount and Waycross, the Chief Train Dispatcher positions at those locations will also be abolished and the train dispatchers at Rocky Mount will report to the Chief Dispatcher at Raleigh and the train dispatchers at Waycross will report to the Chief Dispatcher at Savannah. After the Chief Dispatcher positions are abolished at these points the Trick Train Dispatchers assigned to shifts where no Assistant Chief or Night-Chief is on duty will be paid the rate of Assistant Chief Train Dispatcher.

No physical changes will be made in the location of the train dispatching offices at Rocky Mount and Waycross at this time, nor will there be any change in the trick train dispatchers' dispatching territories effective January 1, 1983.

The Chief Train Dispatchers will work under the jurisdiction of the Division Superintendent at the headquarters office. They will also report to Superintendents on other Divisions on matters pertaining to that Superintendent's territory which are handled by train dispatchers located at other than the Division headquarters for the territory worked.

Before any changes are made in the realignment of train dispatching territories, proper notice will be extended in the usual manner; however, to afford the Division Superintendents direct, constant contact with all of their assigned Operating Division in the interim the following is proposed:

Chief Train Dispatchers on one Division will handle matters with Chief Train Dispatchers on another Division which are relative to their respective Operating Divisions and handled by train dispatchers located in another dispatching office. In the absence of the Chief Train Dispatcher, these duties will be performed by the Assistant Chief or Night-Chief Train Dispatchers except on the shifts at Rocky Mount and Waycross where no Assistant Chief or Night-Chief Dispatcher is on duty those duties will be per- (sic) by the Trick Train Dispatchers.

EXAMPLE: The Chief Dispatcher at Erwin will discuss matters pertaining to territory between Bostic and Monroe with the Chief Dispatcher at Raleigh and in the absence of one or both Chief Dispatchers, the matters will be handled by or between the Assistant Chief Dispatchers. In the absence of an Assistant Chief Train Dispatcher at Waycross and Rocky Mount, matters will be handled by Trick Train Dispatchers."

On May 6, 1983, the parties signed an Agreement which stated the following at Section (3)(d) & (e):

"(d) The Savannah Division train dispatching office at Waycross, Georgia will be made a part of the Savannah Division train dispatching office at Savannah, Georgia.

* * * *

(e) Train dispatchers in the Waycross and Savannah dispatching offices will report to the Savannah Division Chief and Assistant Chief Dispatchers at Savannah, Georgia; whose duties and responsibilities will encompass the entire Savannah Division."

Shortly after the signing of this Agreement Trick Dispatchers at Waycross filed claims for pay at the rate of Assistant Chief Train Dispatchers. According to these claims the Trick Dispatchers were doing work on the claimed dates which had been the responsibility of the Assistant Chief Dispatchers at

Waycross "prior to the positions being abolished." In his denial of the claims the Carrier's Director of Labor Relations states that the December 17, 1982 letter was not an Agreement, but an interim arrangement, and that the Agreement which was signed by the parties on May 6, 1983, states at Section (3)(e), cited above, that Savannah Division Chief and Assistant Chief Dispatchers at Savannah would assume the duties and responsibilities of the Waycross and Savannah dispatching offices. The October 19, 1984 declination letter by the Carrier's Director of Labor Relations further states that prior to the signing of the May 6, 1983 Agreement and

"...prior to the notice being served which was required under the New York Dock Conditions, Mr. W. E. Peeler, former Manager of Labor Relations, now retired, advised you on February 14, 1983 in telephone conversation as follows:

'...that we would pay the ACD rate to trick dispatchers at Rocky Mount and Waycross, when working without a Chief Dispatcher or ACD, on duty at these points until such time as we could reach an agreement...'

It is well established that this Board's jurisdiction under Section 3 of the Railway Labor Act is limited to the "...interpretation of collective bargaining contracts" (Third Division Awards 6695, 21697 inter alia). The parties signed an Agreement in May of 1983, wherein both the Organization and the Carrier signatory thereto agreed that the duties of Assistant Chief Dispatchers at Waycross, where those positions had been abolished, would then be assumed by those at Savannah to which the Waycross office would thenceforth report. It may well be, as the basis of these claims imply, that some of the duties of the Assistant Chief Dispatchers at Waycross residually remained during the time-period in question and were assumed by Trick Dispatchers. Such is not a contractual issue but one of equity. There is numerous precedent emanating from this Board which clearly states that resolution of alleged (or real) inequities are beyond the Board's jurisdiction (Third Division Awards 10705, 12246, 20383).

The Organization argues that the December 17, 1982 letter by the Assistant Vice President-Labor Relations to the General Chairmen had the status of an Agreement. The Board has closely studied the language of this letter and is not able to conclude that it was other than a rendition of unilateral decisions made by the Carrier which were "outlined to (these same General Chairmen) during (a) meeting held in Jacksonville on December 10, (1982)," as the letter states. There is no language found in this letter to justify that its intent was contractual, interim or otherwise. In view of that, this claim before the Board must be dismissed.

There was no Agreement violation.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1988.