

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29527
Docket No. TD-29593
93-3-90-3-563

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

(American Train Dispatchers
Association)
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

- "(a) CSX Transportation, Inc. (Carrier) violated its Train Dispatchers' basic schedule agreement applicable in the Jacksonville Centralized Train Dispatching Center (JCTDC) when on Saturday August 19, 1989, it required and or permitted non-agreement personnel (Chief Train Dispatcher B. A. Barnes) to work ACD position beginning at 1600 hours until 2000 hours on the date of August 19, 1989.
- (b) Because of the lost work opportunities resulting from said violation the Carrier CSX Transportation shall now allow one day's pay (8 hours) at the rate applicable to Chief Dispatchers rate of pay to Mr. F. D. Lane on August 19, 1989.
- (c) Mr. F. D. Lane was available to work this particular day of August 19, 1989, when second trick ACD J. T. Webb marked off sick at 0800, which was ample time to contact Mr. F. D. Lane who was home on his rest day and available. Mr. Lane is qualified on second trick Florence Division position and should have been called.
- (d) Mr. Lane reported no telephone problems with his telephone on August 19, 1989, and in fact did receive several telephone calls during the day of August 19, 1989 without taking any exception to the working conditions of his telephone."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

At 8:00 A.M., on August 19, 1989, the regularly assigned Assistant Chief Train Dispatcher for the Florence Division on the 4:00 P.M. to midnight shift marked off sick. Claimant was a qualified Assistant Chief Dispatcher on his rest day who was entitled to be called for the vacancy under Article 5(i). The issue is whether Claimant was available to work the vacancy.

The Chief Train Dispatcher represented that he called Claimant twice between 8:00 A.M. and 8:30 A.M. and he received no answer. Since he could not reach Claimant, the Chief Dispatcher worked the first four hours (4 to 8 P.M.) of the second shift vacancy and he instructed the third shift Assistant Chief Train Dispatcher (who was just going off duty) to report four hours early to cover the vacancy from 8:00 P.M. to midnight. On the other hand, Claimant emphasized that he was at home and while he received several telephone calls, he did not receive any from the Chief Dispatcher. Thus, the Organization concludes that Claimant was available to fill the vacancy.

This Board cannot resolve the irreconcilable factual dispute regarding whether or not the Chief Dispatcher actually made two attempts to call Claimant between 8:00 A.M. and 8:30 A.M. However, even if we assume that the Chief Train Dispatcher did, he did not exert reasonable efforts to reach Claimant. Since he was not pressed for time (he had seven hours to fill the vacancy), the Chief Dispatcher should have made another telephone call later in the morning. Third Division Award 17116. In this case, the Chief Train Dispatcher could have alerted the third shift Assistant Chief Train Dispatcher that he might be needed to fill the vacancy if the Chief Train Dispatcher was ultimately unable to reach Claimant. The Chief Train Dispatcher had ample time to attempt to reach Claimant again and, if unsuccessful, to contact the third shift Assistant Chief Train Dispatcher.

The claim is sustained for eight hours at the Assistant Chief Train Dispatchers' straight time rate of pay. Our decision is restricted to the peculiar circumstances in the record before us.

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A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of February 1993.