

Award No. 1617
Docket No. 1530
2-AT&SF-CM-'53

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Carroll R. Daugherty when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Carmen R. A. Johnson, J. H. Schamahorn, D. A. Adams and H. R. Maynard were improperly assigned to a work week, Tuesday through Saturday with rest days of Sunday and Monday.

2. That accordingly the carrier be ordered to:

a) Assign these employes to a proper work week, Monday through Friday with rest days of Saturday and Sunday.

b) Make these employes whole by compensating them additionally at the applicable overtime rates instead of straight time for service which they were assigned to perform on each Saturday retroactive to July 28, 1950.

c) Make these employes whole by compensating them additionally in the amount of eight (8) hours at the applicable rate of pay for each Monday, retroactive to July 28, 1950, because they were laid off to equalize the time due to the assignment to work their proper rest days.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1949, Carmen (car repairers) R. A. Johnson, J. H. Schamahorn, D. A. Adams and H. R. Maynard, hereinafter referred to as the claimants, worked regularly an assignment of six (6) days a week, Monday through Saturday, first shift hours 8:00 A. M. to 12:00 Noon and 12:30 P. M. to 4:30 P. M. on the car department repair track located at Arkansas City, Kansas.

On or subsequent to September 1, 1949, these claimants were arbitrarily assigned by the carrier to positions as car repairers on the first shift 8:00 A. M. to 12:00 Noon and 12:30 P. M. to 4:30 P. M., Tuesday through Saturday with rest days of Sunday and Monday at Arkansas City, Kansas, car department.

THROUGH FRIDAY, AND FOR PUNITIVE PAY FOR SATURDAYS AND SUNDAYS AS SUCH. IT HAD IN MIND THE CONTINUOUS NATURE OF SOME OF THE OPERATIONS ON RAILROADS. * * *"

It is crystal clear that the assignments to protect service on Saturdays and Sundays as in effect at Arkansas City and elsewhere are strictly in keeping with the principles enunciated by the Emergency Board. While the employes have repudiated the letter-understanding of October 6, 1950, reproduced in full in this submission, that letter-understanding related to assignments of Tuesday through Saturday and had no application whatsoever to the staggering of car repair forces to protect 7-day service which was fully explained in the carrier's submission in the case covering an identical claim from Wellington. What was said in that case applies with equal force and effect to this case.

FINDINGS: The Second 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 employe 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.

The parties to said dispute were given due notice of hearing thereon.

After the 40-Hour Week Agreement became effective on September 1, 1949, car repairers R. A. Johnson, J. H. Schamahorn, D. A. Adams, and H. R. Maynard, claimants in this case, were assigned to Tuesday-Saturday work weeks, with rest days of Sunday and Monday, on the carrier's "running" car repair tracks at Arkansas City, Kansas. Before the above-mentioned date these employes had been assigned to Monday-Saturday work weeks.

As in the case decided by Award 1599, the organization here has the burden of establishing that the carrier's action was and is in violation of the letter of agreement of October 6, 1950, or of the provisions of the 40-Hour Week Agreement, signed by the parties.

For the reason set forth in our Award 1599, we do not find that the organization has sustained this burden. We think the organization has failed to show that (1) the letter of agreement is controlling in respect to "running" car repairs of the sort involved in the instant case; (2) there is and has been, since September 1, 1949, no need for the assignment of the protested work weeks; and (3) such assignments are and have been in violation of the meaning and intent of the 40-hour week rules.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 7th day of January, 1953.