

Award No. 2445
Docket No. 2134
2-EJ&E-MA-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 88, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Machinists)**

ELGIN, JOLIET & EASTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement, Machinist Helper H. L. Ramsey was improperly compensated at the straight time rate when changing shifts on December 27, 1954.

(2) That accordingly the Carrier be ordered to compensate Machinist Helper H. L. Ramsey additionally in the amount of four (4) hours pay at the straight time rate for December 27, 1954.

EMPLOYEES' STATEMENT OF FACTS: Machinist Helper H. L. Ramsey, hereinafter referred to as the claimant, is employed by the carrier at its Joliet, Illinois roundhouse Monday through Friday from 8:00 A. M. to 4:30 P. M. On December 21, 1954 the claimant was assigned to work on the second shift from 4:00 P. M. to 12:00 Midnight to fill in for a machinist helper off on his annual earned vacation. The claimant returned to his assigned position on the 8:00 A. M. to 4:30 P. M. shift on December 27, 1954. The claimant was compensated at the time and one-half rate for the hours 4:00 P. M. to 12:00 Midnight on December 21, 1954.

The carrier has declined to adjust this dispute on a basis satisfactory to the employees.

POSITION OF EMPLOYES: It is submitted that when claimant changed back December 27, 1954 from working 4:00 P. M. to 12 Midnight shift to his regular shift, 8:00 A. M. to 4:30 P. M. in compliance with instructions from the carrier, he was entitled to be compensated for the change in accordance with the clear and unambiguous provisions of Rule 13, reading in part as follows:

"Employees changed from one shift to another will be paid overtime rates for the first shift of each change. Employees working two shifts or more on a new shift shall be considered transferred. This will not apply when shifts are exchanged at the request of the employee involved."

2. Does it recognize that Article 12(a) of the Vacation Agreement, November 12, 1942, establishes an exception to the operation of the regular relief rules of the basic schedule?

3. Is Rule 13 of the General Rules of the agreement between the Shop Crafts Committee, System Federation No. 88, and the Elgin, Joliet and Eastern Railway Company one of the regular relief rules referred to in Article 12(a) of the Vacation Agreement, November 12, 1942?

The carrier wishes to call the Board's attention to the importance to this determination, not only on its own property, but on the property of every carrier in this country which is a party to the National Vacation Agreement of November 12, 1942. The practice of compensating vacation relief employees in accordance with the provisions of the Vacation Agreement is one which has been universally applied since December 17, 1941, the date of execution of that agreement. As was pointed out earlier in this submission, this interpretation was universally accepted by both the organizations and the railroads up until the time that Award No. 1806 was published.

FINDINGS: The Second 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 employee 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.

Disposition of this claim is governed by our Award No. 2440, Docket No. 1996.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of June, 1957.

DISSENT OF LABOR MEMBERS TO AWARDS NOS. 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2504.

We are constrained to dissent from the majority findings in the above-enumerated awards for the reasons set forth in our dissents to Awards Nos. 2083, 2084, 2107, 2205, 2230, and 2243.

It is our considered opinion that Awards Nos. 1514, 1806, and 1807 of the Second Division should have been followed and the overtime rates embodied in the schedule agreements should have been applied.

R. W. Blake
Charles E. Goodlin
T. E. Losey
Edward W. Wiesner
James B. Zink