

Award No. 3310

Docket No. 3126

2-SLSW-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the rules of the controlling agreement Carman A. R. Hendricks, East St. Louis, Illinois, was unjustly removed from service during the period February 3 through February 9, 1957.

2. That accordingly the Carrier be ordered to compensate the aforesaid Carman for all time lost during the period set forth above in Part 1, or five days at the applicable Carman's rate of pay.

EMPLOYES' STATEMENT OF FACTS: Carman A. R. Hendricks, hereinafter referred to as the claimant, is employed as a freight car repairman on the repair tracks at East St. Louis, Illinois of the St. Louis Southwestern Railway Lines, hereinafter referred to as the carrier. On February 2, 1957, claimant was regularly assigned to work 7:00 A. M. to 3:30 P. M., Friday through Tuesday, with Wednesday and Thursday assigned rest days.

On February 2, 1957, just prior to 3:00 P. M., assistant car foreman, Mr. T. M. Davis, went to the repair tracks to get some men to work overtime on four rush loads, three of which had been set on the rip at approximately 1:50 P. M., and one shortly before 3:00 P. M. He contacted all sixteen carmen working on that shift without getting anyone to agree to stay and work. He then reported to Mr. R. E. Cutrell, general car foreman that he had four rush loads which were set in late, and he did not have enough men on the night shift to get them out. He advised Mr. Cutrell that he needed four men, but could get by with two. Mr. Cutrell then went with him to the repair tracks where he contacted Carmen Hamilton, Byrd, Haas, Hendricks, and Williams, the youngest men working on the shift, and

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.

Parties to said dispute were given due notice of hearing thereon.

As the result of an incident occurring on February 2, 1957, claimant was suspended from service pending a hearing. Said hearing was held on February 6. Claimant was permitted to return to work on February 10, after being held out of service five working days. In addition, his personal record was assessed with 45 demerits. The Organization contends this was not a "proper case" for suspension pending a hearing per Agreement Rule 24-1, and that claimant should be compensated for time lost.

The evidence discloses claimant was guilty of insubordinate conduct by refusing to comply with a General Foreman's instructions to work overtime on February 2. We are unable to find that extenuating circumstances excused this refusal.

We conclude that this was a proper case for suspension pending a hearing in accordance with Rule 24-1. Thus the claim must be denied.

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 August 1959.