

Award No. 3367

Docket No. 3214

2-Pull-EW-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES' DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement The Pullman Company failed to compensate Electrician G. H. Gray at the time and one-half rate of pay for service performed outside of bulletined hours on December 23, 24, 27, 28, 29 and 30, 1957.

2. That accordingly The Pullman Company be ordered to compensate Electrician Gray the difference between the straight time rate of pay which they paid him for the service he performed on these days and the time and one-half rate that was due him.

EMPLOYEES' STATEMENT OF FACTS: Electrician G. H. Gray was recalled from furlough. He reported for service on December 23, 1957, and management verbally assigned him to work from 8:30 A. M. to 5:00 P. M. that day. They also on this date handed him a furlough notice to become effective December 31, 1957. (See Exhibit B).

Management verbally assigned Electrician Gray to work on December 24, 1957, from 8:30 A. M. to 5:00 P. M. and then to take off December 25 and 26, 1957. (See Exhibit B).

Management verbally assigned Electrician Gray to work on December 27, 28, 29 and 30, 1957 from 8:30 A. M. to 5:00 P. M. on each of these days.

These working hours were never bulletined and management compensated Electrician Gray at the straight time rate of pay for service performed on these days. As a result under date of February 16, 1958, our committee submitted a claim charging violation of Rule 31 in behalf of Electrician Gray for time and one-half rate due to the fact that he was

Rule 23 nor Rule 31 supports its position and that it has failed to establish a logical theory which would require the allowance of the claim.

The organization's claim in behalf of Electrician Gray is without merit and should be denied.

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.

Being the senior electrician on furlough, claimant Gray was recalled and assigned to extra work amounting to less than 10 calendar days. There was no Agreement requirement that this assignment be bulletined as a position. See Rule 42. Rule 23 does not apply to an extra work assignment of this nature. That provision deals with the hours of employes holding regular positions. It states that bulletined hours can be changed only on 3 days' written notice, exclusive of relief days. It must be obvious that a requirement of this kind was not intended to apply to extra work assignments made necessary by peak load situations, as in the instant case. Claimant Gray did not work more than 8 hours per day or in excess of 40 hours per week. Therefore, he was not entitled to be paid at the overtime rate.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1959.

DISSENT OF LABOR MEMBERS TO AWARD 3367

The conclusion of the majority in Award 3367 can only be attributed to a total disregard of the rules of the applicable agreement—the facts as contained in the record evidencing a prior settlement of an identical dispute on the property of this carrier on April 16, 1953.

Therefore we dissent.

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