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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6404
Docket No. 6237
2-AT&SF-SM-'72

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute: (System Federation No. 97, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Sheet Metal Workers)
(
(The Atchison, Topeka and Santa Fe Railway Company
(- Coast Lines -

Dispute: Claim of Employees:

That Sheet Metal Worker L. R. Bradshaw (hereinafter referred to as the Claimant) be additionally compensated in the amount of twelve (12) hours at his established rate.

Furthermore, in addition to any amounts claimed herein, the Carrier shall pay the Claimant an additional amount of 6% per annum compounded annually on the anniversary date of this claim.

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 waived right of appearance at hearing thereon.

The Organization contends that claimant was entitled to twelve hours pay at the pro rata rate for working on a holiday pursuant to Rule 6(b) of the Agreement between the parties effective August 1, 1945. It contends also that Section 4 of Article II of the Mediation Agreement, Case No. A-8488, dated September 2, 1969, added nothing to and did not change Rule 6 (b), in providing that employees working on a holiday shall not receive more than one time and one-half payment for service, in addition to his holiday pay. The argument is then made that on top of this, the Carrier must pay double the basic straight time rate to employees who work the second of their rest days provided that he has worked all his assigned hours in that week and has also worked the first rest day of that work week, Public Law 91-226, dated December 4, 1969, signed April 9, 1970.

Carrier has argued that the work having been performed on July 4, 1970, payment was subject to the Mediation Agreement as far as it applies and to the Public Law as it applies. It reasons that the claimant has qualified for double his basic straight time rate by Public Law 91-225. Also, it insists that this is the only reason that double time pay may be granted; that if it were not for this law, claimant would be limited to one and one-half payment for service on a holiday under the Mediation Agreement, in addition to holiday pay.

Second Division Awards No. 6276 and 6348 have been referred to. Each provides a rationale to support the Carrier's position. It is not necessary to repeat the analysis set forth in those Awards. In addition, we hope to make the opinion of this Board more convincing by pointing out that by the language of both the Mediation Agreement and the Public Law, no other result may be reached. We find that the Mediation Agreement allows payment of no more than one and one-half times plus holiday pay for working on the holiday. We also find that the Public Law, which came later stretched payment for working on a holiday to double time provided that an employee qualifies for the double payment by working on a holiday when it is also his second day of rest. There is no language in either the Mediation Agreement or the Public Law which adds to this.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 16th day of November, 1972.