

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Kentucky and Indiana Terminal Railroad Company

Dispute: Claim of Employees:

1. (a) That Carman M. E. Geary was improperly relieved after 16 hours on duty, 8 hours in wrecking service, depriving him from earning an additional one and one-half hours at the double time rate.
- (b) That the Carman M. E. Geary was improperly deprived of a meal period in accordance with the provisions of Rule 7 (b).
2. Accordingly, the Kentucky and Indiana Terminal Railway should be ordered to
 - (a) Compensate Carman Geary one and one-half hours at the double time rate in accordance with the provisions of Rule 7.
 - (b) Compensate Carman Geary one (1) hour at straight time rate in accordance with Rule 9.

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.

Claimant's regular eight-hour shift ended at 7:00 A.M. He accepted call-out for wreck crew work which started at approximately 7:00 A.M. (the exact minute is in dispute but is not material here). He worked until 3:00 P.M. and was paid for eight hours at time and one-half.

The wreck crew work continued for another hour and one-half after Claimant was relieved.

Claimant alleges that he should have received a meal period after two hours of the wreck crew work or in the alternative be compensated for one hour at straight time.

With respect to this issue, Claimant relies on Rule 7(b) which provides as follows:

"Employees shall not be required to render service for more than two (2) hours without being permitted to go to meals. Time taken for meals will not terminate the continuous service period and will be paid for up to thirty (30) minutes."

In this case, the Claimant, in anticipation of the wreck crew assignment, had taken a meal period from 6:30 A.M. to 7:00 A.M. for which he was paid as part of his regular tour of duty. Under normal circumstances, he would not be entitled to be paid for this meal period.

Under these particular circumstances, the Claimant waived any right to receive an additional meal period under the rule, and this portion of the claim will be denied.

Claimant further alleges that once he has accepted a call for wrecking crew service, he should not have been relieved by the Carrier until the entire task was completed. Under Rule 7(f), the Claimant would have been paid at double time for this hour and one-half since the Claimant would have already worked over sixteen hours continuously.

Another carman was second out (after Claimant) on the rotary board. He was called and arrived at 2:38 P.M. and worked until 4:43 P.M. He was paid the minimum call for four hours' straight time.

The Claimant relies upon Rule 109 which reads as follows:

"Regular assigned wrecking crews, including engineer and fireman, will be composed of carmen, and will be paid straight-time rate for straight-time hours, and overtime rates for all overtime hours for all time working, waiting, or traveling."

This Board does not find that Rule 109 on its face supports Claimant's contention that "once the claimant had been called, he had a right to complete the assignment".

Rule 109 does not specifically make such a statement. Nor is Claimant's interpretation a logical conclusion from the specific language of the rule. While it provides for overtime rates for all overtime hours worked, etc., it does not specify what overtime hours must be worked.

Award No. 6613 (Second Division) was cited as supporting the Claimant's allegations. However, that Award was decided on the issue of the distribution of overtime equally as applied to the specific rule and facts of that case. Such a rule was not used in support of the Claimant's contention herein and, therefore, is not at issue here.

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None of the rules cited support the Claimant's assertions. Without a supporting rule, there was no obligation on the part of the Carrier to keep the Claimant working until the wreck was clear.

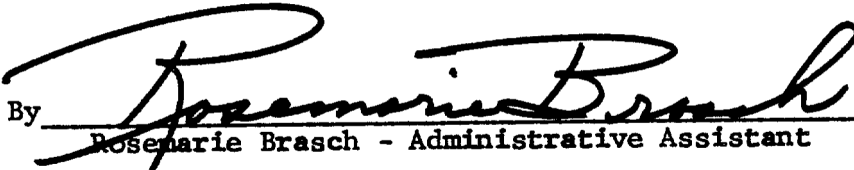
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of January, 1983.