

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

The Second Division consisted of the regular members and in addition Referee John P. Devaney when Award was rendered

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 103, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L.
THE NEW YORK CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—That it is not permissible under Rule No. 6 of the shop crafts' agreement to work employes forty hours per week over a spread of forty-eight hours per week.

POSITION OF EMPLOYEES.—That a certain bulletin posted in March 1933 in the Bridge and Building Department of the carrier at Mott Haven, which attempted to establish a forty-hour work week for shop craft employes, is not authorized by Rule 27 of the shop crafts' agreement, which reads (in part) as follows:

“When it becomes necessary to reduce expenses, the hours may be reduced to forty per week before reducing the force. When the force is reduced, seniority, as per Rule 31, will govern, the men affected to take the rate of job to which they are assigned.” •

The above rule authorized a forty-hour week of five consecutive working days only, and it is not permissible to spread a forty-hour working week over a period of six days, or forty-eight hours, by means of staggering.

That the bulletin of the carrier is an attempt, by means of Rule 27, to avoid the operation of Rule 6 which provides that all overtime shall be paid at the rate of time and one-half.

POSITION OF CARRIER.—That Rule 27 authorized a forty-hour week over a forty-eight-hour period.

That Rule 6 has no application.

That the purpose of the bulletin here in question, and the establishment of a forty-hour working week for the men, was to avoid laying off men, and to spread employment.

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.

FURTHER FINDINGS.—That there was no agreement between the carrier and System Federation No. 103 whereby this bulletin was specifically authorized.

That the language of Rule 27 as here quoted in part, presented to the carrier two alternatives:

- (a) To reduce the working hours of the shop to forty hours per week.
- (b) To reduce forces.

This decision is one which does not call for a construction of this rule, as its language is plain and its meaning clear.

The carrier did not choose either alternative, but continued a forty-eight hour week without reduction of forces, reducing the working time of the men to forty hours per week by staggering employment over the forty-eight hour period.

That the provision of Rule 27 permitting reduction of hours to forty per week refers to the operation of the shop and not to the working hours of the men and does not authorize the staggering system established thereby.

That the carrier and System Federation No. 103 can by proper agreement clarify the meaning of this rule if either party is in doubt as to its application or meaning.

That this bulletin is unauthorized and is a violation of the shop crafts' agreement Rule 27, and is, therefore, void.

AWARD

That bulletin posted by the New York Central Railroad Company in March, 1933, in the Bridge and Building Department at Mott Haven, establishing a forty-hour week to govern shop craft employes, by continuing to operate the shop for forty-eight hours per week, is in violation of Rule 27 and is, therefore, void and of no effect.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 13th day of February, 1936.