

Award No. 705

Docket No. 723

2-ACL-MA-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That carrier violated the terms of Rules 3, 7 and 9 of the current agreement when requiring H. H. Price, machinist, Wilmington, North Carolina, to change from his regularly assigned daylight shift to protect vacancy caused by the absence of J. B. Casteen for a period of one week at straight time pay.

That Machinist Price, six-day assigned, first shift, 8:00 A. M. to 4:30 P. M., be compensated at the established overtime rate of pay for changing shifts, August 26, 1941, to protect vacancy caused by absence of J. B. Casteen, engine inspector, night shift, 9:00 P. M. to 5:30 A. M. Amount involved \$3.48.

That Machinist Price be compensated at overtime rate to cover two eight-hour shifts worked on the nights of August 31 and September 1, Sunday and Labor Day, respectively, subsequent to his changing shifts as of August 26. Amount involved \$6.96.

That Machinist Price was improperly held off of his regular first shift assignment, September 2, date J. B. Casteen returned to duty; therefore, he should be compensated at overtime rate for change of shift then in order, but delayed until September 3 to apply straight time rate. Amount involved \$10.44.

EMPLOYEES' STATEMENT OF FACTS: Bulletined hours established for the force employed in the enginehouse at Wilmington, North Carolina, are from 8:00 A. M. to 4:30 P. M. and from 9:00 P. M. to 5:30 A. M., constituting a first and second or day and night shift of forty-eight hours each per week. A part of the force is regularly assigned by bulletin to also perform work on Sundays and holidays in the protection of work absolutely essential to the continuous operation of the railroad.

The hourly assignments now prevailing at Wilmington were made effective subsequent to bulletins posted there on December 27, 1940, for the purpose of readjusting force according to the terms of agreement (Rule 3) dated November 11, 1940. Prior to that time a part of the force had been assigned to forty hours per week, another portion to forty-eight, and still another which, while working only forty-eight, was staggered to include Sundays and holidays; therefore, recognized as seven-day assigned under the terms of old Rule 3 and supplement thereto, hereinafter quoted.

New Rule 3 was applied to place all the force employed in Wilmington enginehouse on forty-eight hours per week. Bulletin was placed calling for bids to cover the number of jobs to be worked on Sundays and holidays. The

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.

Machinist Price was regularly assigned to the day shift and was directed to work on the night shift for the purpose of giving Engine Inspector Casten leave of absence; therefore, he was not exercising seniority in making this change.

Machinist Price was not regularly assigned by bulletin to work on Sundays and holidays.

Paragraph (d) of Rule 3 requires co-operation between the foreman and local committee in arranging for relief, and the same paragraph plainly requires payment for relief service in accordance with the method outlined in Rule 3.

If Machinist Price could work two shifts in the first instance of being transferred from the day shift to the night shift, he should have been allowed to work his regular assignment September 2nd, when he again returned from the night shift to the day shift.

AWARD

Claim of employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 3rd day of March, 1942.