

Award No. 824

Docket No. 728

2-A&S-CM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 131, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

ALTON AND SOUTHERN RAILROAD

DISPUTE: CLAIM OF EMPLOYES: The term, "Train Yards" contained in Rule 5 of the agreement definitely restricts Sunday and holiday service for straight time to transit inspection and repairs such as could be and are made only in train yard service, that any and all work performed by carmen in the car department other than those in train yards who are regularly assigned by bulletin to work on Sundays and holidays, is service for which time and one-half applies, and we request that all such service be paid for at the rate of time and one-half retroactive to and including Sunday, July 13, 1941.

EMPLOYES' STATEMENT OF FACTS: Prior to July 10, 1941, the rip-track or shop forces in car department consisted of seven men.

On July 10, 1941 (Thursday) the superintendent of motive power, notified the employes by bulletin, reading as follows:

"Effective at once, all Car Department jobs are seven day assignments."

All the repair track forces made out their time-cards for Sunday work, July 13, at the rate of time and one-half, which was refused.

Car Reading 7405 was received on the repair-track, badly damaged and needing extensive repairs, on June 21, and released August 1, forty-two days later.

Since July 10, the regular weekly rip-track force has been increased from seven to fifteen men, all assigned to seven day assignments.

This Sunday force is actually being used in converting flat cars to that of the under frame of cabooses and the erection of new cabooses of which there are four, work on dead engines in the back shop, regular rip-track work, repairing air-hose for stock, painting, filling places of regularly assigned seven day men at straight time with the exception of painters who are paid time and one-half.

Prior to July 10, 1941, when running repair and inspection forces were off duty on Sunday or holidays, their places were filled by the regular shop forces and they were paid time and one-half for such work in accordance with the agreement. After compelling all car department forces to work seven days per week, these jobs are filled at the cost of straight time.

We have shown that there is no foundation for the employees' claim that "the term 'Train Yards' contained in Rule 5 of the agreement definitely restricts Sunday and holiday service for straight time to transit inspection and repairs such as could be and are made only in train yard service", and that there is no foundation for the claim "that any and all work performed by carmen in the Car Department other than those in train yards who are regularly assigned by bulletin to work on Sundays and holidays, is service for which time and one-half applies."

We have shown that our repair track force is a running repair force; and that the majority of the work performed by that force is running repair work absolutely essential to the continuous operation of the carrier; and that work other than running repair work performed by our repair track force on Sundays and holidays to fill out the day is not in violation of the agreement.

We have shown that the claim that "all such service be paid for at the rate of time and one-half retroactive to and including 'Sunday', July 10, 1941," is without foundation, and carrier respectfully requests that the claim of the employees 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.

The exception with respect to the payment of overtime rates for Sunday and holiday work contained in Rule 5 of the agreement is expressly applicable not only to "train yards" but to "running repair and inspection forces," without regard to their location; and no distinction is made between the locomotive department and the car department.

No basis appears, therefore, for the sweeping claim of the employees.

The rule provides, however, that "Sunday and holiday work will be required only when absolutely essential to the continuous operation of the railroad;" and the evidence of record discloses that non-essential work was performed by the Sunday and holiday forces in the building of cabin cars and in the execution of certain general repairs.

The record is inadequate to determine the amount of overtime due to the employes involved in this non-essential work, or whether and to what extent the number of employes assigned by bulletin to work on Sundays and holidays should, for the future, properly be reduced.

In these circumstances the parties are directed to make a joint survey of the situation and to adjust these matters through conference.

AWARD

• Claim sustained to the extent and on the basis indicated in the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of October, 1942.