

Award No. 873
Docket No. 798
2-CStPM&O-MA-'42

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee H. B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 75, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)

CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA
RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: Pump Repairmen T. H. Drake and C. J. Stengel and Pump Repairmen Helpers J. J. Lubinski and Ben Smith are entitled to pay at straight time rate from 7:01 P. M., Sunday, February 26, 1939, to 8:00 A. M., Monday, February 27, 1939.

JOINT STATEMENT OF FACTS: The agreement between the Chicago, Saint Paul, Minneapolis and Omaha Railroad effective July 1, 1926, contains the following:

RULE 14: Employees regularly assigned to road work whose tour of duty is regular and who leave and return to home station daily (a boarding car to be considered a home station), shall be paid continuous time from the time of leaving the home station to the time they return whether working, waiting or traveling, exclusive of the meal period, as follows:

Straight time for all hours traveling and waiting, straight time for work performed during regular hours, and overtime rates for work performed during overtime hours. If relieved from duty and permitted to go to bed for five hours or more, they will not be allowed pay for such hours. Where meals and lodging are not provided by the company when away from home station, actual expenses will be allowed.

The starting time to be not earlier than 6 AM, nor later than 8 AM.

Where two or more shifts are worked, the starting time will be regulated accordingly.

Where employees are required to use boarding cars, the railroad will furnish sanitary cars and equip them for cooking, heating and lodging; the present practice of furnishing cooks and equipment and maintaining and operating the cars, shall be continued.

same day, for which they were paid straight time in accordance with the first paragraph of Rule 14T, and from 7:01 P. M., February 26, until Monday morning, February 27, 8:00 A. M., which is their regular starting time, they are entitled to be paid for time "waiting" and should be paid for at straight time for this period.

This grievance has been handled in accordance with the provisions of the agreement between the Chicago, Saint Paul, Minneapolis and Omaha Railroad and the federated shop crafts, affiliated with System Federation No. 75, effective July 1, 1926, with amendments thereto, and in accordance with the provisions of the Railway Labor Act.

POSITION OF CARRIER: Saturday morning, February 25, 1939, a breakdown occurred to the mechanical parts of coal shed located at Clayton, Wisconsin. Repair parts were ordered by wire from St. Paul store department as this coal shed serves trains operating on an important line between St. Paul, Minnesota and Spooner, Wisconsin. Investigation Sunday morning disclosed there was only sufficient coal in shed to furnish fuel for engines until Monday morning—therefore, it was imperative repairs be promptly started Monday morning so the work could be completed and a supply of coal placed in shed for the trains moving Monday night.

The employees involved in this claim were deadheaded on a passenger train Sunday evening from Spooner, Wisconsin. This was the only passenger train scheduled that would get them to Clayton (before 7:00 P. M. Monday evening) so they could begin work on the coal shed at 8:00 A. M. Monday, their regular starting time at home station. They were paid for this travel time and their meals and lodging were paid for as provided for in Rule 14T. They were not paid from their arrival at Clayton 7:01 P. M., February 26, to 8:00 A. M., February 27, as they were relieved from duty, permitted to go to bed and were not required to perform any work during that period.

Carrier feels there is nothing in Rule 14T, either expressed or implied, that would encourage the belief that these employees are entitled to pay during the hours they were at Clayton the night of February 26 and not working.

Carrier contends employees were properly compensated in strict conformity with provisions of Rule 14T. It is the further contention of carrier that Rule 14T contains no language that could possibly sustain petitioner's claim, and your Board is requested to so find.

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 employees 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 question presented by this docket is the meaning of the term "relieved from duty" as contained in Rule 14T. In construing this same term in similar rules this Division has held that such provisions did not relieve the carrier from paying continuous time from the time of leaving the home station until return where the attempt was made to relieve from duty while traveling, Award 828, or while waiting after the work was completed, Awards 154, 360 and 829.

The basis upon which the cited awards is placed appears to be that an employe is not on duty subject to be relieved within the meaning of the rule unless the relief is necessary for the employe as a rest period; during travel-

ing time or waiting time relief is not necessary as a rest period and an employe is not on duty within the meaning of the term "relieved from duty," in the sense that he might be relieved and the carrier thereby avoid payment for the time consumed in either traveling or waiting.

Applying the principle of the cited awards to the facts in this docket it is found that the claimant was not subject to be relieved under the rule during the time after he arrived at Clayton and was waiting to commence work as directed by the carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 19th day of November, 1942.