**Award No. 914**
**Docket No. 840**
**2-CUT-CM-'43**

# NATIONAL RAILROAD ADJUSTMENT BOARD
## SECOND DIVISION

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

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## PARTIES TO DISPUTE:

## SYSTEM FEDERATION NO. 150, RAILWAY EMPLOYES' DEPARTMENT, A. F. OF L. (CARMEN)

## THE CINCINNATI UNION TERMINAL COMPANY

**DISPUTE: CLAIM OF EMPLOYES:** That under the controlling agreement and the last paragraph of Rule 3 thereof, Car Inspector C. G. Hopper is entitled to be paid a minimum of one hour for the overtime worked on July 6, 1942.

**EMPLOYES' STATEMENT OF FACTS:** Car Inspector C. G. Hopper is regularly assigned on 7:00 A. M. to 3:00 P. M. shift. On July 6, 1942, as on other occasions, he was required to work overtime, actually fifteen minutes or until 3:15, for which he was paid time and one-half on the minute basis.

Car Inspector Hopper claimed a minimum of one hour, and his claim has been denied.

On subsequent occasions Car Inspector Hopper has been required to work overtime continuously with his regular hours and the dates thereof in part and the time involved follow:

(a) Fifteen minutes July 7, 8 and 13, 1942.

(b) Thirty minutes July 14 and 18.

(c) Thirty minutes August 12, 16, 18, 19, 21, 22, 23, 24, 27, 29 and 31, 1942. All of this overtime is paid for on the minute basis instead of the one hour minimum.

**POSITION OF EMPLOYES:** We contend that the claimant should have been paid one hour at straight time for the overtime worked on July 6 and on each of the dates listed in the statement of facts. Our contention is based on the last paragraph of Rule 3 of the shop crafts agreement which specifically provides:

> Employes will be allowed time and one-half on a minute basis for services continuous with and in advance of the regular working period, with a minimum of one hour straight time.

**CARRIER'S STATEMENT OF FACTS:** On July 6, 1942, the date of this claim, Car Inspector C. G. Hopper was assigned to work eight hours beginning at 7 A. M. and ending at 3 P. M. In order to complete work of the character covered by his assignment it was necessary for Mr. Hopper on

The carrier can not account for such a demand being made as it appears unreasonable and illogical in view of the facts as herein recorded. The most probable explanation of this position of the committee is that the Terminal Company when it began operation in 1933 recruited its forces from the seven Cincinnati railroads that jointly arranged for the construction of the terminal and its subsequent use by all of them jointly. This was true in the case of shop crafts and the men coming to us for this reason in many instances had been employed previously under the shop craft schedules of one or the other of the seven proprietary companies.

The Board will recognize that the two provisions requested by the employes were identical with similar provisions in Addendum 6 to Decision 222 of the United States Railroad Labor Board and undoubtedly the Addendum 6 rule in its entirety may be in effect on some of the Cincinnati railroads that use these facilities. However, that has no bearing on the question and the employment relationship of our shop craft employes is solely with the Cincinnati Union Terminal Company and not with any of the proprietary companies either directly or indirectly. They do not retain seniority on such proprietary companies nor do the rules or practices of those companies affect our employes in any way.

We ask that the Board deny this request as being absolutely without foundation.

The carrier has acquainted the President of System Federation No. 150 with its position as herein outlined. We do not, however, subscribe to the request that a hearing shall be waived. It is our point of view that such procedure might be proper where the case before the Board involved only an honest difference of opinion about applying a rule that might lend itself to different interpretations by different parties. That is not the character of case involved here, however, but a plain attempt to have the Second Division write into our rules a provision that is not there and which on the contrary was requested by the employes and definitely dropped by them in the mutual negotiations that resulted in the schedule agreement.

**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.

Under paragraph 1 of Rule 3, overtime is to be paid for on a minute basis. Paragraph 3 of the rule provides for a minimum of "one hour srtaight time" where the overtime service is "continuous with and in advance of the regular working period." There is no minimum provided where the overtime service is continuous with and following the regular working period. The service upon which the claim is predicated was continuous with and following the regular working period and it follows that such service should be compensated under the general provisions of paragraph 1 on a minute basis.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of June, 1943.