

Award No. 985

Docket No. 918

2-MP-MA-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (MACHINISTS)**

**MISSOURI PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

- a. That by compensating Machinist B. Ehman of Falls City, Nebraska, at straight time rate for service required on second shift date of Sunday, December 6, 1942, management violated provisions of controlling agreement and Rule 3 (b) thereof.
- b. That Machinist Ehman be additionally compensated at rate of time and one-half for service rendered date of Sunday, December 6, 1942.

**EMPLOYEES' STATEMENT OF FACTS:** At Falls City, Nebraska, carrier maintains a roundhouse and machine shop force. In the roundhouse there are maintained—

1. Two shifts of supervisors with hours from 6:30 A. M. to 6:30 P. M. and 6:30 P. M. to 6:30 A. M.; one roundhouse foreman on each of the respective shifts.
2. Three shifts of machinist inspectors, one on each shift—7:00 A. M. to 3:00 P. M., 3:00 P. M. to 11:00 P. M., and 11:00 P. M. to 7:00 A. M.
3. Two shifts of machinists with hours of first shift from 7:30 A. M. to 4:30 P. M. and night shift 7:30 P. M. to 4:30 A. M.
4. Machinists on day shift are assigned by bulletin to work six and seven days per week on basis of sixty per cent working six days per week and forty per cent working seven days per week.
  - a. On date of Sunday, December 6, 1942, by permission of carrier, Night Foreman Cooper laid off.
  - b. That by direction of carrier, Machinist Inspector Brown, regularly assigned on 3:00 P. M. to 11:00 P. M. shift, seven days per week, filled vacancy of Night Foreman Cooper on December 6, 1942.
  - c. Machinist B. Ehman, regularly assigned on first shift six days per week, exclusive of Sundays and holidays, was ordered by carrier to work second shift inspection job in place of Brown, 3:00 P. M. to 11:00 P. M. shift, Sunday, December 6, 1942, for which he was paid straight-time rate.

**POSITION OF EMPLOYEES:** In view of the foregoing and the intent of the exception in Rule 3 (b)

Work performed on Sundays and the following legal holidays, namely New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas (pro-

(e) Employees will be allowed time and one-half on minute basis for services performed continuously in advance of the regular working period with a minimum of one hour—the advance period to be not more than one hour.

(f) Except as otherwise provided for in this rule, all overtime beyond sixteen hours actual work in any twenty-four hour period, computed from starting time of employees' regular shift, shall be paid for at rate of double time.

The employees' request has heretofore been denied by the management on the basis that Rule 4 is in no way applicable to the claim. For the service performed by Mr. Ehman, he was entitled to compensation in accord with that part of Rule 3 (b), reading:

**"MEN CALLED TO FILL THEIR PLACES ON SUCH REGULAR ASSIGNMENT, WILL BE COMPENSATED ON THE SAME BASIS AS ON WEEK DAYS."**

The week day basis of payment is pro rata rate and this rate is paid to the man who fills the Sunday assignment established under the rule. If the regular man fills the job he is paid on this basis and when he is absent for any cause whatsoever and another man is called to fill the job he, likewise, is paid on the same basis, in strict accord with the plain reading of the rule and the practices thereunder, since the rule has been a part of the agreement between the carrier and the employees' organizations representing the employees.

This same question has heretofore been presented to your honorable board by the complainant organization and covered by your Award No. 875, Docket No. 799, dated Chicago, November 20, 1942. The facts in the instant case are no different in principle than those contained in the case covered by the aforementioned award and the carrier respectfully requests that what was said in its position in this previous case (Award No. 875) be given appropriate consideration by your honorable board in the adjudication of the instant dispute.

**FINDINGS:** The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Rule 3 (b) provides that employees "\* \* \* who are regularly assigned by bulletin to work on Sundays and holidays and men called to fill their places on such regular assignment, will be compensated on the same basis as on week days. \* \* \*"

Machinist Ehman was used to fill the place of a regular assigned machinist and as such will be compensated on the same basis as on week days.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 26th day of January, 1944.