

Award No. 1012

Docket No. 926

2-CRI&P-MA-'44

**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. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

**THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY**

(Frank O. Lowden and Joseph B. Fleming, Trustees)

DISPUTE: CLAIM OF EMPLOYEES: 1. That the controlling agreement and Rule 4 thereof, was violated at Fort Worth, Texas, when the carrier paid straight time to Machinist Noel H. Graves for his services Sunday, January 17, 1943.

2. That the carrier be ordered to pay Machinist Noel H. Graves time and one-half for the service which he rendered Sunday, January 17, 1943.

EMPLOYEES' STATEMENT OF FACTS:

1—Prior and subsequent to Sunday, January 17, 1943, Machinist N. H. Graves was regularly assigned by bulletin on the first shift, seven (7) days per week in the Fort Worth, Texas, roundhouse, to perform locomotive running repair work and he worked on January 17.

2—On Sunday, January 17, 1943, Machinist Graves was taken off locomotive running repair work and used to repair a saw in the mill room, and for repairing this saw he was only paid straight time.

3—There is no regularly assigned millwright gang at Fort Worth, Texas, and furthermore, the saw in the mill room is only generally operated six (6) days per week exclusive of Sundays.

4—The controlling agreement is dated effective September 15, 1941.

POSITION OF EMPLOYEES: Rule 4 of the agreement, reads in part, as follows:

"All services performed on Sundays . . . shall be paid for at the rate of time and one-half, except that employes necessary to the operation of . . . millwright gangs . . . who are regularly assigned by bulletin to work on Sundays and holidays . . . will be compensated on the same basis as on week days."

Positions are not bulletined to perform only specific items of work, unless it might be some specialized or preferred position, such as engine inspector whenever, under the agreement, it is necessary to have an inspector assigned regularly.

Mr. Graves was assigned by bulletin to and was working on a seven-day assignment to perform work covered by the machinists' classification of work rule and on the Sunday in question, January 17, 1943, he performed millwright work on the saw in the mill.

The work performed by Machinist Graves on Sunday, January 17, 1943, in connection with repairs to this saw, was work as contemplated in Rule 4 of the agreement of September 15, 1941, for which pro-rata rate is provided when performed by employees who are regularly assigned by bulletin to perform work on Sundays and holidays. It was "millwright" work as covered by the rule and, in addition, such work on Sunday, January 17, 1943, when the mill was not working, was necessary for the continuous operation of the railroad, for to have delayed performing this emergency work until Monday, January 18, 1943, would have caused the mill to be shut down on that day, when it was needed, awaiting finish of repairs to the saw. As it was, the mill was able to start operating on Monday, January 18, without interruption.

The reason Rule 4 provides for pro-rata rate on Sundays for millwright work is that is a day on which such work can be performed with the least interruption to essential work necessary to the continuous operation of the railroad.

The employee, Mr. Graves, who performed this millwright work was and is regularly assigned by bulletin to work on Sundays and holidays as per Rule 4. The work performed on the saw also was in the nature of "running repairs" and was emergency work, necessary to the continuous operation of the railroad. The saw unquestionably was needed Monday morning, January 18. Mr. Graves being so assigned and performing this "millwright" work on Sunday, January 17, was, therefore, properly paid at pro-rata rate as per Rule 4.

As a qualified machinist, Mr. Graves, of course, is not confined to any particular item of machinist work, but is obliged to perform work as specified in machinists' classification of work Rule 53, and when any of that work is work as specified in Rule 4, such as millwright work, and is performed Sunday by an employee who is "regularly assigned by bulletin to work on Sundays and holidays" pro-rata rate of pay is proper under that rule.

Rule 4 does not provide that in order for pro-rata rate to apply an employee must be assigned solely to millwright work, or solely to running repairs, but merely "who are assigned by bulletin to work on Sundays and holidays."

As Machinist Graves was properly assigned and paid under Rule 4 of the agreement of September 15, 1941, there was no violation of the agreement and claim should 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 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.

The evidence of record supports the following conclusions: that the claimant was not assigned, within the meaning of Rule 4 of the controlling agree-

ment, to do millwright work on Sundays and holidays at straight-time rates; that the carrier violated this rule of the agreement in paying the claimant straight time for the millwright work performed by him on Sunday, January 17, 1943; and that the claimant is entitled to time and one-half for the service thus rendered.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of March, 1944.