

Award No. 1016

Docket No. 950

2-C&S-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. 140, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

THE COLORADO AND SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the carrier unjustly dealt with and thereby damaged machinists and helpers on the roundhouse overtime board when 3 machinists and 3 machinist helpers from the C. B. & Q., were employed and arbitrarily assigned to work 10 hours a day, seven days a week on September 10, through to and including September 22, 1942.

2. That in consideration of the aforesaid, the carrier be ordered to—

(a) Distribute at the rate of time and one-half all time worked in excess of 8 hours on week days and all time worked on Sundays by the C. B. & Q. machinists between September 9 and 23, 1942, equally among the machinists whose names were on the overtime board during said period of time.

(b) Distribute at the rate of time and one-half all time worked in excess of 8 hours on week days and all time worked on Sundays by the C. B. & Q. machinist helpers between September 9 and 23, 1942, equally among the machinist helpers whose names were on the overtime board during said period of time.

EMPLOYEES' STATEMENT OF FACTS: The carrier maintains a roundhouse at Denver, Colorado. This roundhouse is operated on the basis of three shifts, twenty-four hours a day, seven days a week.

Between September 9 and 23, 1942, there were employed in the roundhouse approximately forty-one machinists and thirty-two machinist helpers who were previously in the service of the Chicago, Burlington and Quincy Railroad,—exclusive of three machinists and three machinist helpers.

There was also maintained in this roundhouse, jointly an overtime board which had operated successfully between the management and the local committee of machinists. A photograph of the names of the machinists and helpers on this "overtime board" between September 9 and 23, 1942, is submitted and identified as Exhibit A. These are the claimants referred to in employees' Claim 2 (a) and (b). It will be noted there are a total of twenty-six machinist claimants and a total of twenty-three helper claimants on this "overtime board."

As Exhibit A shows that the regular forces were worked two consecutive Sundays, except for their personal reasons, there can be no claim for discrimination in connection with Rule 8, paragraph (b), and, therefore, no violation of that paragraph.

As the regular forces on the second shift were being used in servicing and making running repairs to locomotives and the temporary force was used on what is frequently termed "dead" work (that is, work on locomotives held in for classified or heavy running repairs), it was not practicable to take the men off of the dead work at the close of the eight hour shift and put on men that had been used on other classes of work simply for the purpose of distributing overtime. The rule does not so require as it provides "as nearly as conditions will permit." The conditions did not permit the distribution of the overtime in this case. Therefore, there was no violation of this paragraph of the rule.

The claim as presented is too general and not proper. It requests that overtime made by men on one shift be distributed among men on other shifts. This is not practicable and is not required by the agreement. If there is a claim, it must be between the men on the same shift, and we have shown that there has been no violation of the rule as between the regular force and the temporary force on the second shift and, therefore, the claim should be declined.

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 evidence of record supports the following conclusions: that Rule 8 (c) of the controlling agreement obligates the carrier to keep a record of overtime worked and to call men "with the purpose in view of distributing overtime equally as nearly as conditions will permit"; that the 10-hour assignments involved in this proceeding, during the period specified in the claim, constituted a violation of this rule of the agreement; that the overtime board maintained on this property constituted the established mechanism for distributing overtime in conformity with the requirements of this rule; and that the men whose names appeared on the overtime board between September 10 and September 22, 1942, both inclusive, are entitled to have distributed "equally" amongst them, in conformity with the usual operation of the overtime board, the overtime hours worked by the 3 machinists and the 3 machinist helpers from the C. B. & Q. utilized during this period, and to be paid at the rate of time and one-half therefor.

AWARD

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

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

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