

Award No. 1162

Docket No. 1086

2-CRI&P-CM-'46

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Sidney St. F. Thaxter when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)

THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY

Joseph B. Fleming and Aaron Colnon, Trustees

DISPUTE: CLAIM OF EMPLOYEES: That Car Inspectors R. W. Kicksey, Chas. D. Taylor, Loyd A. Watson, J. E. Stout, Jake O'Dell, R. Radakovich, R. B. Willis and Jake Sparrow are each entitled to be additionally compensated in the amount of four hours at the applicable straight time rate of 97¢ per hour on August 21, 1945.

EMPLOYEES' STATEMENT OF FACTS: The aforesaid car inspectors, hereinafter referred to as the claimants, are regularly employed by the carrier in the train yard at Silvis, Illinois. These claimants were ordered to report at Dr. Neuman's car, located back of the Silvis Depot, for eyesight and hearing tests outside of their regularly assigned hours of work. The date and time they were each required to report for the eyesight and hearing tests, and the regularly assigned hours of these claimants, are identified after their respective names, as indicated below:

Name	Date	Time to Report	Assigned Shop Hrs.
R. W. Kicksey	8/21/45	1:00 PM	4:00 PM to 12:00 MN
Chas. D. Taylor	8/21/45	9:00 PM	12:00 MN to 8:00 AM
Loyd A. Watson	8/21/45	10:00 AM	12:00 MN to 8:00 AM
J. E. Stout	8/21/45	10:30 AM	12:00 MN to 8:00 AM
Jake O'Dell	8/21/45	11:30 AM	12:00 MN to 8:00 AM
R. Radakovich	8/21/45	3:30 PM	12:00 MN to 8:00 AM
R. B. Willis	8/21/45	9:30 AM	12:00 MN to 8:00 AM
Jake Sparrow	8/21/45	8:30 AM	12:00 MN to 8:00 AM

The agreement dated September 15, 1941 is controlling.

POSITION OF EMPLOYEES: It is a fact that these claimants, as carmen, were subject to be assigned to perform the duties defined as car inspectors' work in Rule 110, and by virtue of their employment as car inspectors, they were subject to be required to take the usual eyesight and hearing tests prescribed in the last paragraph of Rule 36.

POSITION OF CARRIER: As we understand the employees' claim, there is no contention made by them that car inspectors are not subject to the usual eyesight and hearing tests, as in the instant case, under the provisions of the second paragraph of Rule 36, but that when required to undergo such re-examination outside of regularly assigned hours, they are entitled to pay therefor under some provision (not mentioned by them) of Rule 5 of the shop-crafts' agreement.

It is the carrier's position that there is no rule in the agreement which requires payment in a case such as now before this Board.

The presence of these employees at the examinations on August 21, 1945, was of mutual interest to both the employees and carrier and was not "work" nor "service" as those words are used in Rule 5. See Award No. 2828 of the Third Division of the Adjustment Board.

The carrier makes every effort to examine this class of employees on company time, but there are times, due to the schedule of the examining physician, and shifts worked by employees, that this is not always possible.

Under the circumstances, the claim is without merit and 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 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 claimants were required to report for eyesight and hearing tests outside of their regular hours. They seek compensation under Rule 5 for time so spent. But the taking of such examination is not service as the word is used in that rule. Nor is it work as the word is used in Rule 110. There is no rule providing for compensation for time so spent and this Division is without power to write one.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois this 30th day of October, 1946.