

Award No. 1170

Docket No. 1096

2-IC-MA-'46

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the employes named below are each entitled to be additionally compensated at their straight time rate for the hours specified after their names, by virtue of having been in service at the end of the week on each date identified in the period between January 22 and June 4, 1945—

- 1—Arthur L. Tragnitz, machinist, Saturday, January 27; Saturday, February 3, 10 and 17; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26, and Saturday, June 2, 1945, a total of 19 hours at the rate of \$.79 per hour.
- 2—P. W. Johnson, machinist, Saturday, January 27; Saturday, February 3, 10, 17 and 24; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26; and Saturday, June 2, 1945, a total of 19 hours at the rate of \$1.04 per hour.
- 3—Paul Tribbett, machinist, Saturday, January 27; Saturday, February 3, 10, 17 and 24; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26; and Saturday, June 2, 1945, a total of 19 hours at the rate of \$1.04 per hour.
- 4—Leo C. Kilcoyne, machinist, Saturday, January 27; Saturday, February 3, 10, 17 and 24; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26; and Saturday, June 2, 1945, a total of 19 hours at the rate of \$1.04 per hour.
- 5—Nandor J. Zsetenyi, machinist helper, Saturday, January 27; Saturday, February 3, 10, 17 and 24; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26; and June 2, 1945, a total of 19 hours at the rate of \$.79 per hour.
- 6—John Buckley, machinist helper, Saturday, January 27; Saturday, February 3, 10, 17 and 24; Saturday, March 3, 10, 17, 24 and 31; Saturday, April 7, 14, 21 and 28; Saturday, May 5, 12, 19 and 26; and Saturday, June 2, 1945, a total of 19 hours at the rate of \$.79 per hour.

and that the carrier be accordingly ordered to make the said adjustments.

EMPLOYEES' STATEMENT OF FACTS: The employes listed above, hereinafter referred to as the claimants, were regularly employed by the carrier during the period of January 22 to June 4, 1945, at the Markham shop, Chicago, Illinois.

Evidentiary of the fact the employes are and have been aware of the practice is the following quoted from General Chairman Hunter's letter of May 19, 1945:

"The basis for your position is that it is past practice and that employes who might be late were not docked. The Supervisors may use their own discretion as to whether they dock an employe reporting late and we would not intercede in this matter. We agree it is past practice and are making no claims prior to the dates of making grievances as pointed out in my letter of January 22, 1945, and March 19, 1945."

The carrier maintains that the complained of interpretation has been established as controlling by long practice which has been acknowledged by the employes and that, therefore, there is no dispute that this Board may decide.

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 waived right of appearance at hearing thereon.

Rule 57 is unambiguous and provides for the payment of the so-called "grace hour" when employes are required to check in and out on their own time.

The fact that there had been exceptions made as to the application of this rule does not change its meaning.

There is a question of fact as to the employes mentioned in the dispute having been required to check in and out on their own time, which should have been resolved on the property.

AWARD

Claim sustained in accordance with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 11th day of December, 1946.