

Award No. 1454
Docket No. 1371
2-C&NW-MA- '51

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreement Machinist Lester Laboyeske was entitled to be compensated at the time and one-half rate on August 6, 1949 from 3:30 P. M. to 5:30 P. M. in lieu of straight time and accordingly the carrier be ordered to additionally compensate him in this manner for the aforesaid hours.

EMPLOYEES' STATEMENT OF FACTS: Machinist Lester Laboyeske is employed at the North Fond du Lac motor track car and roadway equipment shop on the 7:00 A. M. to 12:00 Noon-12:30 P. M. to 3:30 P. M. shift.

On August 6, 1949, he was assigned to go to Ashippun, Wisconsin to make repairs to a Jackson electric tamper using his own car as a means of transportation, which necessitated taking with him the following equipment and tools to complete the repairs:

12 tamper blades @ 12½ lbs. each	150 lbs.
1 unit	100 lbs.
1 tool box and tools	60 lbs.
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	310 lbs.

He left North Fond du Lac at 8:30 A. M. and arrived at Ashippun, a distance of 58 miles, at 10:30 A. M.

He worked at Ashippun from 10:30 A. M. to 3:30 P. M.

He left Ashippun at 3:30 P. M. and worked driving his car, carrying the same weight of material and tools, until he arrived at North Fond du Lac at 5:30 P. M.

His return trip to North Fond du Lac was during overtime hours of his regular work day assignment and for such hours he was only allowed straight time rate of pay.

This case was handled from the bottom to the top with the carrier officials designated to handle these affairs, who all decline to adjust the matter.

If required to leave home station during overtime hours, they will be allowed one hour preparatory time at straight-time rate.

Wrecking service employees will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on Sundays or holidays will be paid for at rate of time and one-half."

POSITION OF CARRIER: The traveling in his automobile by Machinist Lester Laboyeske on Saturday, August 6, 1949 was not travel time on a Sunday or holiday which Sunday and holiday travel is paid for at the rate of time and one-half under provisions of the first paragraph of rule 10 quoted above. Neither was he a wrecking service employee entitled to compensation at rate of time and one-half for traveling on week days after the recognized straight time hours at home station under provisions of the last paragraph of rule 10. The time spent by Lester Laboyeske, including that outside his assigned hours at his home station, in going to and returning from Ashippun on Saturday, August 6, 1949 was traveling time in emergency road service on other than a Sunday or holiday and was subject to the provisions of the first paragraph of rule 10 which specifically provides that such travel time will be paid for at straight time rates.

It is the position of the carrier that, with the exception of wrecking service employees, who are paid rate of time and one-half for traveling after straight time hours at home station, all other classes of employees coming within the scope of the agreement between the carrier and the federated craft organizations, required to drive their own automobiles (for the use whereof a mileage allowance is made) as a means of transportation in connection with the performance of emergency road work as referred to in rule 10 of the agreement, are under provisions of that rule only entitled to compensation at straight time rate for all of such travel time, except on Sundays and holidays. In that connection, attention is invited to Second Division, National Railroad Adjustment Board, Award No. 912, dated June 7, 1943, denying a claim for overtime compensation to a mechanic for travel time in his automobile during overtime hours, which claim involved the provisions of a rule similar to the first paragraph of rule 10 quoted above and which claim was based on a contention that driving an automobile is actual work and not travel time within the meaning of the emergency road service rule.

It is the further position of the carrier that the claim of the employees is not supported by rules of agreement between the carrier and the federated craft organizations and therefore cannot consistently nor properly be sustained.

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.

Claimant, Machinist Lester Laboyeske, is regularly assigned at the North Fond du Lac Motor Track Car and Roadway Equipment Shop 7:00 A. M. to 12:00 Noon, and 12:30 P. M. to 3:30 P. M. On August 6, 1949, he was directed to go to Ashippun, Wisconsin, to make repairs on a Jackson Tamper. He used his own automobile for transportation and carried tools and equipment with him in the car. He was paid a mileage allowance for the use of his automobile. He was paid travel time at straight time rates on his return trip for the period from 3:30 P. M. to 5:30 P. M., they being

the hours spent in returning home outside of his regular assignment. It is contended that claimant in operating his own automobile was performing work as distinguished from travel time as defined by Rule 10, Federated Crafts' Schedule Agreement in effect on August 6, 1949, for which he demands the time and one-half rate of pay.

Claimant was traveling in emergency road service from 3:30 P. M. to 5:30 P. M. within the meaning of Rule 10. Any work connected with the operation of his own automobile must be deemed to be included in the mileage allowance made. The travel time being on a day other than a Sunday or holiday claimant was correctly paid straight time in accordance with Rule 10 and no basis for an affirmative award exists. See Award No. 912.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of July, 1951.