

Award No. 1485

Docket No. 1401

2-C&NW-EW-'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 EMPLOYES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement, the carrier denied Traveling Mechanic Electrician Sam Berns compensation for service performed on Sunday, May 7, 1950, from 12.01 A. M. to 8:00 A. M.

2. That accordingly the carrier be ordered to properly compensate the aforementioned traveling mechanic electrician in the amount of eight (8) hours at the rate of time and one-half for such hours.

JOINT STATEMENT OF FACTS: Sam Berns, hereinafter referred to as the claimant, is employed as a traveling mechanic electrician with headquarters at Chicago, Illinois. He is paid on a monthly basis under the provisions of Rule 155, federated crafts' agreement, as revised and is assigned a work week from Monday to Friday, inclusive, with Saturday as a stand-by day and Sunday his regular rest day.

On Friday, May 5, 1950, he was instructed to go to Belle Plaine, Iowa, to perform work of an emergency nature. He was required to ride all night, Friday, May 5, 1950, arriving at Belle Plaine, Iowa, Saturday morning, May 6, 1950.

Upon completion of the emergency work at Belle Plaine, Iowa, he was instructed to go to Lisbon, Iowa, to perform emergency work at a pumping station located there. He arrived at Lisbon about 4:00 P. M. Saturday, May 6, 1950, and upon completion of the work to which he was assigned, it was necessary for him to wait until 8:00 P. M. for a bus to Cedar Rapids, Iowa, which was the nearest station from which he could get train connections to Chicago, Illinois. He had to wait at Cedar Rapids, Iowa, until 2:35 A. M., Sunday, May 7, 1950, for a train to Chicago, arriving at Chicago at 8:00 A. M., Sunday, May 7, 1950.

The agreement effective July 1, 1921, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that Rule 155 reading in part as follows:

thereof being required to work excessive hours, the salary for these positions may be taken up for adjustment."

The monthly rate of pay applicable to employes assigned to road work positions referred to in rule 155 covers all service performed on the first five days of the assigned work week as well as emergency service on the sixth or so-called "standby" day of the work week including waiting and travel time in connection therewith on such days.

It is the position of the carrier that regular work days as well as the sixth or so-called "standby" day of the work week and the rest day of employes assigned to positions established under provisions of rule 155 include the 24-hour periods from the starting time of the position.

The recognized starting time of the position held by Sam Berns is 8:00 A. M. Therefore, the Saturday "standby" day of his work week covers the period 8:00 A. M., Saturday, to 8:00 A. M., Sunday, and his Sunday rest day covers the period 8:00 A. M., Sunday to 8:00 A. M., Monday. The employe would not be entitled to any compensation in addition to the monthly rate for any service performed (including the emergency service on the sixth or "standby" day) or for waiting and traveling time in connection therewith during the work week period 8:00 A. M., Monday, to 8:00 A. M., Sunday. However, for any service or waiting and traveling time in connection therewith during his Sunday rest day period (8:00 A. M., Sunday to 8:00 A. M., Monday) the employe would be entitled to additional compensation under provisions of overtime rules applicable to other employes coming within the scope of federated crafts' agreement.

Sam Berns started his return trip to Chicago on Saturday, May 6, 1950, and completed same at 8:00 A. M., Sunday, May 7, 1950, all within the sixth or "standby" day period (8:00 A. M., Saturday to 8:00 A. M., Sunday).

It is the position of the carrier that the claim presented in behalf of Sam Berns is not supported by the provisions of any rules or agreements 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 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.

Claimant is employed as a Traveling Mechanic Electrician with headquarters at Chicago, Illinois. He is a monthly rated employe under the provisions of Rule 155, current agreement, and is assigned Monday through Friday, inclusive, with Saturday as a stand-by day and Sunday his rest day. Overtime rules apply only to service performed on the assigned rest day.

On Friday, May 5, 1950, claimant was directed to go to Bell Plaine, Iowa, to perform emergency work. He arrived at Belle Plaine on Saturday, May 6, 1950. After completing this work, he was instructed to go to Lisbon, Iowa, to perform additional emergency work. He arrived at Lisbon about 4:00 P. M., Saturday, May 6, 1950. He performed his work at that point and returned to Chicago, arriving at 8:00 A. M., Sunday, May 7, 1950. It is the contention of the organization that claimant's rest day began at 12:01 A. M., Sunday, May 7, 1950, and that he is entitled to time and one-half from 12:01 A. M. to 8:00 A. M. of that day. The carrier contends that claimant's rest day began at 8:00 A. M., Sunday, and consequently no overtime was earned. This constitutes the dispute.

By the agreement effective September 1, 1949, monthly rated employees regularly assigned to road work were converted into a comprehended hour-age of 228 $\frac{1}{3}$ hours; no overtime is allowed for time worked in excess of eight hours per day, nor is time to be deducted unless the employee voluntarily lays off. These employees are assigned one regular rest day per week, Sunday, if possible. Overtime rules apply to the rest day only. The sixth day of the week is a standby day. Rule 155, Agreement effective September 1, 1949. Consequently the monthly rate includes all service performed on the first five days of claimant's assigned work week and any emergency service required on his standby day. Work performed on the rest day is all that is rated at time and one-half.

The claimant's starting time was 8:00 A. M. While eight hours usually constitutes a day's work, a twenty-four hour day when applied to collective agreements, unless specific exception is made, is the twenty-four hour period immediately following the assigned starting time of his daily assignment. We think this is contemplated on claimant's regularly assigned days (Monday through Friday), his standby day (Saturday), and his rest day (Sunday). The payment of overtime for work on a calendar day basis applies only to holidays, Rule 6(f) being a specific rule providing for time and one-half to be calculated in that manner.

The organization contends that rest day work is likewise compensated on a calendar day basis. We point out that the rule does not specify that rest day work shall be compensated on a calendar day basis any more than it does for the regular Monday through Friday assignment or the stand by day.

It is true that the former agreement between the organization and this carrier contained quite different provisions in dealing with this subject. Under the agreement effective January 1, 1925, Sunday and holiday work was rated at time and one-half; and, in that agreement it was specifically provided that Sunday work was to be paid for on the calendar day basis except as to employees paid on a monthly basis. Rest days, however, were not so specified. See Rule 6, effective July 1, 1921, as amended effective January 1, 1925. Under the controlling agreement in the case before us, Sunday and rest day work are not specified as being paid for on the calendar day basis, while holiday work is so specified. (If it had been intended that rest day work was to be paid for on a calendar day basis, it would have been a very simple matter to have said so by appropriate language.) Clearly it was intended that only holiday work was to be paid for on the calendar day basis, while the regular assigned days, standby days, Sundays, and rest days were to be paid for in the usual and ordinary manner, to-wit: That a day is the twenty-four hour period immediately following the starting time of the daily assignment. This being true, claimants standby day commenced at 8:00 A. M., Saturday, May 6, 1950 and ended at 8:00 A. M., on Sunday, May 7, 1950. Consequently, no work was performed on claimant's rest day which commenced on Sunday, May 7, 1950 at 8:01 A. M. and the carrier correctly determined that no compensation was due.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1951.