

Award No. 1507
Docket No. 1407
2-AT&SF-CM-'52

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and
in addition Referee Jay S. Parker when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
SYSTEM (Western Lines)

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agree-
ment Carman R. H. Groom was entitled to be called and paid for four (4)
hours at his applicable rate for Sunday, January 22, 1950, account of a ma-
chinist performing carmen's work.

2. That accordingly the carrier be ordered to pay this employe for a four
(4) hour call at his applicable hourly rate.

EMPLOYEES' STATEMENT OF FACTS: Carman R. H. Groom was em-
ployed by the carrier at Amarillo, Texas, as such, March 15, 1941, and was
employed as such on January 22, 1950, with bulletined and assigned hours as
a rip track repairman with working hours 8:00 A. M. to 12:00 Noon and 12:30
P. M. to 4:30 P. M., work week, Monday through Friday.

On Sunday, January 22, 1950, car A. T. 10426 was set to the Amarillo,
Texas, car department repair track at 1:50 P. M., had ordered account of a
broken pipe bracket.

A machinist was called from the machinists' craft to perform the weld-
ing necessary to repair the broken pipe bracket. The car was repaired and
reported for release at 3:45 P. M., January 22, 1950. The car was switched
from the repair track at 4:30 P. M. and placed in train 91-U departing from
Amarillo at 10:20 P. M. January 22, 1950.

In handling this dispute with the carrier officers, they have recognized
that there was a violation and offered to settle the claim for one hour's pay
at straight-time rate.

The employes rejected their proposal account of the provisions of Rule
7(d) of the effective agreement provide that an employe be paid for four
hours work for two hours and forty minutes, or less, work.

The agreement effective August 1, 1945, and subsequently amended, is
controlling.

for four hours or less on any day. None of the carmen on duty, nor Mr. Groom was regularly assigned to perform welding work; consequently, had the carmen on duty been used to perform the welding work, which would have been done if they were capable of doing it, they would have been paid the welder's rate for one hour only.

In the light of all the facts and circumstances surrounding this case, it is evident that the contention and claim of the employes is without justification, merit or basis, and should accordingly 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 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.

Without laboring the facts which can be gleaned from the parties submissions it suffices to say that on Sunday, January 22, 1950, carman's work, including welding of a broken air brake pipe bracket was required immediately in order to repair and move a loaded automobile car. The pool welder assigned at the point in question was off duty and the five carmen on duty were either unable to perform the welding work necessary to place the car in repair, or not asked to do it. Accordingly, and it is so conceded, the carrier used a machinist who was on duty and capable of doing so to perform the work which took approximately 30 minutes. In that situation we have little difficulty in concluding that under Rules 29 (a), 102 and 7 (d) of the current agreement the work required was carman's work, that a carman should have been called to perform it, and that if one had been called he would have been entitled to receive pay for 4 hours at the pro rata rate. The penalty for failure to make a call is the minimum number of hours a qualified carman would have received at the pro rata rate if the call had been made and he had performed the work. It follows the claim is meritorious and should be allowed.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman,
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January, 1952.