

Award No. 1648

Docket No. 1548

2-GC&SF-CM-'53

**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 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carmen E. M. Vaughn and J. E. Hart were improperly assigned to a work week Wednesday through Sunday with rest days Monday and Tuesday.

2. That accordingly the Carrier be ordered to:

a) Assign these employes to a proper work week of Monday through Friday with rest days Saturday and Sunday.

b) Make these employes whole by compensating them additionally at the applicable overtime rates instead of straight time for service which they were assigned to perform on every Saturday and every Sunday as following:

Carman E. M. Vaughn—Period December 1, 1950 to May 5, 1951, inclusive.

Carman J. E. Hart—Period May 7, 1951, to date proper assignment is made.

c) Make these employes whole by compensating them additionally in the amount of eight (8) hours at the applicable rate of pay for each Monday and each Tuesday during the periods contained in (b) above, because they were laid off to equalize the time due to the assignment to work their proper rest days.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1949, Carmen E. M. Vaughn and J. E. Hart, hereinafter referred to as the claimants, worked regularly an assignment of six days per week, Monday through Saturday, first shift hours 8:00 A. M. to 12:00 Noon and 12:30 P. M. to 4:30 P. M. on the car department repair track at Dallas, Texas.

On or subsequent to September 1, 1949, these claimants were arbitrarily assigned by the carrier to positions as car repairers, first shift, on the car department repair track at Dallas, Wednesday through Sunday with rest days of Monday and Tuesday.

DAYS AND SUNDAYS AS SUCH. IT HAD IN MIND THE CONTINUOUS NATURE OF SOME OF THE OPERATIONS ON RAILROADS—*"**

It is crystal clear that the assignments to protect service on Saturdays and Sundays as are in effect at Dallas are strictly in keeping with the principles enunciated by the Emergency Board. The employes have not at any time submitted any evidence to show that the carrier had no operational need for Saturday and Sunday service at Dallas. They have merely taken the position that the staggering of work weeks of car repair forces engaged in running repair work is in violation of the "Forty Hour Work Week Agreement" and the letter-understanding dated October 6, 1950, which by their actions has been repudiated.

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.

Claimants were assigned on or about September 1, 1949, to positions at Dallas, Texas, of car repairers, Wednesday through Sunday with rest days of Monday and Tuesday. The contend they should have been assigned Monday through Friday with rest days of Saturday and Sunday. Claim is made for wage losses sustained because of the alleged improper assignment.

The controlling rules are the same as those involved in Award No. 1644, and the interpretations there made are incorporated herein by reference. The burden is upon the employes to show that the carrier misapplied the agreement in establishing seven-day positions at Dallas for the employes assigned to the work of making running repairs on cars coming into that point. This they have failed to do by the greater weight of the evidence. The result is therefore controlled by the reasoning of Award 1644 and a denial award is in order.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 19th day of March, 1953.

LABOR MEMBERS' DISSENT TO AWARDS Nos. 1644 to 1655, inclusive.

Prior to September 1, 1949, the "regular bulletined hours" for car department repair track forces were Monday through Saturday (six days a week) in conformity with Rule 2 of the Agreement effective August 1, 1945. The "regular bulletined hours" of these forces did not include Holidays.

The agreement as amended September 1, 1949 did not change the "regular bulletined hours" of the repair track forces and did not authorize the inclusion of Sundays or Holidays in the weekly five day assignment of these forces. (See Second Division Awards 1432, 1443, 1444).

The Letter Agreement of October 6, 1950 constitutes a mutual settlement of the dispute regarding staggered work weeks for repair track forces. Since the instant repair track force is not employed at one of the points where a staggered work week is authorized, the majority erroneously excluded such point from the application of the aforementioned Letter Agreement. The claims should have been sustained retroactive to and including October 16, 1950.

Edward W. Wiesner

R. W. Blake

A. C. Bowen

T. E. Losey

George Wright