

Award No. 1770
Docket No. 1675
2-AT&SF-CM-'54

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

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

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Coast Lines)**

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Carman Lead Man A. O. Leicht is being improperly compensated for services performed retroactive sixty (60) days from August 1, 1952.

2. That accordingly the Carrier be ordered to compensate the aforesaid Claimant the difference in what he was paid and what he was entitled to be paid retroactive sixty (60) days from August 1, 1952 to date this violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Carman Lead Workman A. O. Leicht, hereinafter referred to as the claimant, is regularly employed, bulletined and assigned as such at San Diego, California, with second shift assigned hours. Since approximately May 1, 1952, the claimant in addition to performing the work of lead carman and freight car repairman is required to make repairs to passenger cars tied up at San Diego, approximately two (2) hours out of his regular eight-hour assignment on each of his work days.

The claimant is compensated at the freight carman's rate, plus the six (6¢) cent differential for the hours when he does not make repairs to passenger cars. For the hours used to make repairs to passenger cars the claimant is compensated at the passenger carman's rate of pay.

The employees contend that the claimant, as long as he is used to make repairs to passenger cars, is entitled to be compensated at the passenger carman's rate of pay plus the six (6¢) cent differential for his entire tour of duty each day.

The carrier has declined to adjust this dispute.

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

quired to do repair work on a Pullman car laying over at San Diego, pay on basis of the passenger carman's rate, plus the 6¢ differential.

When the claimant is engaged in performing the aforementioned passenger car repairman's work, he works alone, and by reason of the fact he does not lead or direct any other employees, he is thereby entitled to the regular passenger car repairman's rate, since that rate is higher than his lead car inspector's rate. Payment of the higher rate is required by Rule 15 of the agreement effective August 1, 1945, and the conditions embodied in that rule have throughout been met by the carrier.

There is no similarity between the conditions resulting in Second Division Award No. 1374 and the conditions in the instant claim hence, that award could not possibly have any bearing on the point at issue in this dispute.

In conclusion, it may be pointed out that determination of the issue hinges on the application of Rule 15. Briefly, it is the carrier's position that under Rule 15 of the controlling agreement, when an employe performs work carrying a higher rate than his regular rate, it is obliged to pay the higher rate. That is precisely what has and is being done in the Leicht case. Prior to June 1st his regular rate was \$1.959, while the passenger car repairmen's rate was \$1.983, and accordingly Leicht was paid the higher of the two rates, viz., \$1.983. It is clearly apparent that that is all he is entitled to under the applicable rules of the agreement.

This claim is one which, regardless of the angle from which viewed, merits nothing other than a denying award and we trust your Honorable Board will so 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 were given due notice of hearing thereon.

Claimant is regularly assigned as a lead workman under the carmen's agreement at San Diego, California. Since May 1, 1952, he has been required to make repairs on passenger cars in addition to his work as lead workman and freight car repairman. The carmen's rate in repairing freight cars is \$1.899 per hour. He is paid a differential of \$0.06 per hour by virtue of his being the lead workman, making his hourly rate as a lead workman \$1.959. The rate of a coach repairman is \$1.983 per hour. For the time worked as a coach repairman, the carrier paid him \$1.983 per hour. He claims he should have been paid \$2.043 per hour.

The dispute arises out of the fact that carrier refused to pay the differential due a lead workman while he worked as a coach repairman. He was paid the coach repairman's higher hourly rate only.

Claimant was correctly paid. His hourly rate as a lead workman was \$1.959. The rate of a coach repairman is \$1.983 per hour. He is entitled to the higher rate. He was not a lead workman while working as a coach repairman, consequently he earned no differential.

Claimant cites Award 1374 in support of his claim. A careful examination of the facts set forth in that award shows that each of three differentials

were earned by the claimant in that case. In the case before us, claimant did not work as a lead workman while doing coach repairman's work and did not therefore earn the differential that he claims.

AWARD

Claim Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of the Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of May, 1954.