

Award No. 1935

Docket No. 1826

2-UP-EW-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (ELECTRICAL WORKERS)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Districtman L. E. Dixon was improperly ordered to go out of his assigned territory and help an Equipmentman on February 10th, 11th, and 12th, 1953.

2. That accordingly the Carrier be ordered to:

a) Discontinue these improper assignments;

b) Additionally compensate Districtman L. E. Dixon at the rate of time and one-half for all time used on this improper assignment on February 10th, 11th and 12th, 1953.

EMPLOYEES' STATEMENT OF FACTS: Each districtman working in the telegraph department of the Union Pacific Railroad, bid and are assigned a definite territory with headquarters at a station within that district. L. E. Dixon, hereinafter referred to as the claimant, is employed as districtman with headquarters at Montpelier, Idaho.

On February 10, 1953, the claimant received a wire from G. H. Prohaska, supervisor of lines, to drive to Pocatello, Idaho—off his assigned territory—and assist Mr. J. C. Howell, equipmentman, on Work Order No. 3783, which consisted of installing recorder equipment at the yard office. The claimant reported as ordered and worked with Mr. Howell for three days, February 10, 11, and 12, 1953.

The dispute was handled with carrier officials designated to handle such affairs, who all declined to settle the matter.

The agreement effective August 1, 1943, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the carrier violated Rule 26, which reads as following:

with a minimum of two hours. If required to work in excess of two hours a maximum of four hours will be allowed.

The pro rata overtime hourly rate as shown in Rules 4 and 5 is determined by dividing the monthly rate by 208.67.

Where employes on August 31, 1949 had a bulletin or assigned rest day conditions then applicable to such bulletin or assigned rest day shall thereafter apply to the sixth day of the work week. Where employes on August 31, 1949 did not have a bulletin or assigned rest day ordinary maintenance or construction work not theretofore required on Sunday will not be required on the sixth day of the work week."

That rule, which provides for the monthly compensation to be received by districtmen, makes no provision for any additional compensation, at either straight or overtime rate, for the performance of such service. Thus, since Dixon was, and is, compensated on the basis of a monthly salary under the provisions of Rule 6, there would, in any case, be no basis for the allowance of the additional compensation claimed herein.

There is no contractual basis for the claim presented herein. It is requested that it 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.

Pay is claimed for Districtman Dixon because of being required to go out of his assigned territory to help an equipmentman.

Applicable Rule 26 reads:

"Districtman may be required to afford reasonable assistance to districtman on adjoining territory, otherwise will not be required to work outside of his assigned territory, except in cases of emergency."

Claimant received wire to "drive to Pocatello this A. M. assist Howell Recorder installation yard office next few days." Pocatello was on adjoining territory; Rodda its districtman, and Howell an equipmentman then in process of installing recorders there.

Claimant's work report states that during three days he spent a total of 18 hours there: "Install recorders assisting equipmentman." On that record the organization claims that Dixon assisted Equipmentman Howell rather than Districtman Rodda and thereby the rule was violated.

Telegrams and work reports are not so carefully worded as are negotiated rules and we think the claim must depend on the work actually done and the purpose of requiring claimant to do it rather than on verbal distinctions. Claimant has the burden of showing infringement. No statement by any participant is in the record, but it is shown that Rodda was not well, having had a serious case of flu; that there was certain work, such as placing wire in a trench and backfilling, which was normally and properly required of a districtman in connection with recorder installation; that Rodda had

started such work and Dixon was called to help do that work; that while they worked with Howell and assisted in the installation, neither of them performed Howell's work, and we think from such record that in fact Dixon was giving reasonable assistance to Rodda at the work, which he was properly obligated to do, in cooperation with Howell.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May, 1955.