

Award No. 2103

Docket No. 1943

2-GN-CM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Carman Charles Lundquist and Carman Helper Marvin Visger were improperly denied overtime compensation for change of shift on April 19, 1954.

2. That accordingly the Carrier be ordered to additionally compensate the aforementioned employees each in the amount of four (4) hours' pay at the applicable rate for April 19, 1954.

EMPLOYEES' STATEMENT OF FACTS: At Superior car shops on April 16, 1954, the Great Northern Railway Company (hereinafter referred to as the carrier) abolished the second shift hours of 3:30 P. M. to 11:30 P. M. in the steel car shops. The first shift remained in operation. Carman Charles Lundquist and Carman Helper Marvin Visger (hereinafter referred to as the claimants) regularly assigned to the second shift at the steel car shop, due to the carrier's action in abolishing the second shift, in order to remain in the carrier's service, which they had a contractual right to do, were forced to change from the 3:30 P. M.-11:30 P. M. shift to the 7:00 A. M. to 3:30 P. M. shift on April 19, 1954. At the time the second shift was abolished, carmen and carman helpers were also furloughed. The claimants were compensated at the applicable straight time rate for working the first shift on April 19, 1954.

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

The agreement effective September 1, 1949, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the change of shift by the claimants on April 19, 1954 from the 3:30 P. M.-11:30 P. M. shift to the 7:00 A. M.-3:30 P. M. shift was brought about because the carrier elected to abolish the second shift in the steel car shop, and not by a desire of the

Rule 5 (c) likewise had a bearing inasmuch as he had been working in an upgraded classification as carman and displaced a junior helper.

We direct your attention to the language of your Board in your findings in Award 1816, wherein you state:

"We point out that the change in shift rule does not apply in this case. There was no change of shifts within the meaning of the rule. The positions of these claimants in the erecting shop were abolished. There were no shifts on the abolished positions remaining to which a change could be made."

This is the identical situation as heretofore shown which pertained in the case now before you. Would also refer you to your findings in Award No. 1276, a similar case in which you denied the claim of the employees.

The carrier holds, therefore, that in line with the clearly expressed opinion of your Board in Award No. 1816, which covers a situation identical to that herein, you cannot do other than deny the claim of the employees in this case.

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.

This case is similar to that covered by our Award No. 2067 (Docket No. 1940) and should be denied for the same reasons.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1956.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2103

The findings of the majority in Award No. 2067 were erroneous and the fact that the majority relies on their findings in that Award in an attempt to justify a denial award in the instant case demonstrates that they ignored the evidence in both cases.

Even though there was a reduction in force in the present instance the fact remains that the claimants were transferred from the second to the first shift "at the direction of management" within the terms of Rule 18 (a) and should therefore have been compensated in accordance with that rule as claimed. We are therefore constrained to dissent from the findings and award.

Charles E. Goodlin
R. W. Blake
T. E. Losey
Edward W. Wiesner
George Wright