

Award No. 2180

Docket No. 1946

2-AT&SF-EW-'56

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. (Electrical Workers)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
SYSTEM**

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current applicable Agreement the Carrier declined to properly compensate Shop Extension Department Electrical Workers, L. J. Moore, M. H. Lehman, L. A. Ruiz, J. N. Larsen, H. C. Peterson, D. W. Sherwood, Irving Zingler and John C. Burns, for construction and maintenance work performed on September 11, September 18, September 25, October 30 and November 6, 1954, between the hours of 7:00 A.M. to 11:30 A.M.; 12:00 Noon to 3:30 P.M., at San Bernardino, California.

2. That accordingly, the Carrier be ordered to pay Shop Extension Electrical Workers L. J. Moore, M. H. Lehman, L. A. Ruiz, J. N. Larsen, H. C. Peterson, D. W. Sherwood, Irving Zingler and John C. Burns for the aforesaid time of eight (8) hours at the applicable time and one-half rate, for the days September 11, September 18, September 25, October 30 and November 6, 1954.

EMPLOYEES' STATEMENT OF FACTS: Shop Extension Department Electrical Workers, L. J. Moore, M. H. Lehman, L. A. Ruiz, J. N. Larsen, H. C. Peterson, D. W. Sherwood, Irving Zingler and John C. Burns, hereinafter referred to as the claimants, are monthly rated employees, regularly employed by the carrier in the mechanical department in the shop extension electrical department, Coast Lines, as construction and maintenance electrical workers, headquarters, San Bernardino, California.

The claimants were instructed to perform the following: On Saturday, September 11, 1954; install 3-250 KVA Transformers, old steel shed, Locomotive Department, San Bernardino, California. Time worked: 7:00 A.M. to 11:30 A.M.; 12:00 Noon to 3:30 P.M. On Saturday, September 18, 1954; remove 3-100 KVA and install 3-150 KVA Transformers, Coach Shop, Car Department, San Bernardino, California. Time worked: 7:00 A.M. to 11:30 A.M.; 12:00 Noon to 3:30 P.M. On Saturday, September 25, 1954; install 120 feet conduit, remove 1-100 HP D.C. motor and install 1-75 HP A.C. motor on transfer table, account change from D.C. to A.C. Current, San Bernardino, California. Time worked 7:00 A.M. to 11:30 A.M.; 12:00 Noon to 3:30 P.M.

1) There was no reasonable alternative. The work involved in this dispute had to be done on those Saturdays;

2) Prior to September 1, 1949 Sunday was an assigned rest day for employees such as are involved in this dispute.

3) The employees such as are involved in this dispute come within the category of the first sentence of Rule 14 (i), which outlines the handling to be given in instances as are herein involved:

4) When found necessary, similar work required on Sunday prior to September 1, 1949 and additional compensation, not to exceed four hours pay, allowed therefor under Rule 14 (b) of the August 1, 1945 agreement;

5) Since the effective date of the 40-hour week agreement, the carrier has applied the provisions of Rule 14 (i) to like employees and compensated them for service of this nature per Rule 14 (b) of the August 1, 1945 agreement.

The carrier petitions the Board to decline the claim on the basis that the work required of the employees involved in this dispute was of the same nature as that required of employees of this classification to perform on Sunday, prior to September 1, 1949, and that under the supplemental agreement of May 13, 1949, paragraph (i), Rule 14, the carrier has the right to have such work performed on Saturday, subsequent to September 1, 1949, allowing therefor punitive compensation of not to exceed four (4) hours pay, in addition to pay for the day included in monthly salary.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 are monthly rated employees who were required to work eight (8) hours on the Saturdays designated in the claim. Carrier paid claimants for four (4) hours' additional time for this work, the claimants contending they were entitled to eight (8) hours' pay. The Controlling rule is 14(i), agreement effective September 1, 1949, which provides:

"Where employees now have a bulletined or assigned rest day, conditions now applicable to such bulletined or assigned rest day shall hereafter apply to the sixth day of the work week. Where employees do not now have a bulletined or assigned rest day, ordinary maintenance or construction work not heretofore required on Sunday will not be required on the sixth day of the work week."

The work performed included three (3) items of improvements to carrier's shop facilities which are briefly described as follows:

1. Increase transformer capacity account electrical distribution systems overloaded.

2. Convert transfer table from direct current to alternating current operation in order to eliminate condemned wiring and change out the obsolete direct current equipment.

3. Replace trolley feeder wires serving one 15 ton and one 7½ ton crane, west Diesel Shop.

The work was necessary and urgent. The record shows that it was necessary to be performed on Saturdays and Sundays in order to keep machinery and equipment operating Mondays through Fridays. We do not think the work was emergent in character as that term is commonly used. The work was unusual and extraordinary, and not regularly performed. There were valid reasons why it could not be performed on days other than Saturday and Sunday. We think it is work included within Rule 14(i) and is paid for the same as Sunday work prior to September 1, 1949. Payment for four (4) hours' work in addition to the comprehended monthly rate of monthly rated employes for rest day work is in accordance with payments made for Sunday work prior to September 1, 1949. There was, therefore, no violation of the agreement. Award 1944.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of July, 1956.