

Award No. 2444

Docket No. 2126

2-WP-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 117, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

THE WESTERN PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1) That under the current agreement, Carman R. C. Furtney was improperly compensated at the straight time rate for services performed on December 26 and 30, 1954.

2) That accordingly, the Carrier be ordered to compensate Carman Furtney an additional amount of four hours pay at the straight time rate for each of the above dates.

EMPLOYEES' STATEMENT OF FACTS: Carman R. C. Furtney hereinafter referred to as the claimant, regularly assigned on the repair track at Oakland, California from 7:30 A. M. to 4 P. M., thirty minutes lunch period, Monday through Friday with rest days of Saturday and Sunday, was instructed on Friday, December 24, 1954, by written instructions of supervision, to arrange to work in place of Carman E. J. Neri in the Oakland passenger yard, who was off on vacation.

Carman Neri's regular assignment was Saturday through Wednesday with rest days of Thursday and Friday and assigned hours of 12 Midnight to 8 A. M. The claimant reported for work 12 Midnight Sunday, December 26, 1954 and returned to his regular assigned position on the 7:30 A. M. to 4 P. M. shift Thursday, December 30, 1954.

This dispute has been handled in accordance with the agreement effective February 1, 1946 as subsequently amended up to and including the highest officer designated by the carrier to whom such matters are subject to be appealed with the result that he has declined to adjust it on a basis satisfactory to the employees.

POSITION OF EMPLOYEES: It is submitted that when the claimant changed from his regular assigned shift hours of 7:30 A. M. to 4 P. M. to the shift hours of 12 Midnight to 8 A. M. on Sunday, December 26, 1954 in compliance with his foreman's instructions, he was entitled to be compensated for the hours of 12 Midnight to 8 A. M. on Sunday, December 26

sions, including changes in the Vacation Agreement, were negotiated;

(5) No suggestion to change the agreed upon interpretation was made by the organization until Awards 1806 and 1807 were rendered;

(6) The awards purporting to set aside this final and binding interpretation were erroneously arrived at and should be specifically overruled.

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.

Disposition of this claim is governed by our Award No. 2440 (Docket No. 1996).

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of June, 1957.

**DISSENT OF LABOR MEMBERS TO AWARDS NOS. 2440,
2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450,
2451, 2452, 2453, 2454, 2455, 2456, 2457, 2504.**

We are constrained to dissent from the majority findings in the above-enumerated awards for the reasons set forth in our dissents to Awards Nos. 2083, 2084, 2197, 2205, 2230 and 2243.

It is our considered opinion that Awards Nos. 1514, 1806 and 1807 of the Second Division should have been followed and the overtime rates embodied in the schedule agreements should have been applied.

R. W. Blake
Charles E. Goodlin
T. E. Losey
Edward W. Wiesner
James B. Zink