

Award No. 2460
Docket No. 2294
2-DM&IR-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. 71, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement Carmen Harold E. Murphy, Raymond Rosen, Ernest A. Johnson, Donald Kulas, Einer Soderberg and LeRoy Ahlstrom were unjustly deprived of the right to work their regularly assigned hours on the 7:00 A. M. to 3:30 P. M. shift on the days set forth below.

2. That accordingly the Carrier be ordered to reimburse:

a) Harold E. Murphy and Raymond Rosen in the amount of seven and one-half ($7\frac{1}{2}$) hours each at the pro rata rate for April 26, 1954;

b) Donald Kulas, Einer Soderberg and LeRoy Ahlstrom in the amount of eight (8) hours each at the pro rata rate for April 26, 1954;

c) Ernest A. Johnson in the amount of seven and one-half ($7\frac{1}{2}$) hours at the pro rata rate for April 27, 1954.

EMPLOYES' STATEMENT OF FACTS: At Two Harbors, Minnesota, the carrier maintains a large car repair force at their car shop, with bulletined hours 7 A. M. to 3:30 P. M. Monday through Friday, with one-half hour for lunch period. There are two seniority divisions for seniority purposes, the Iron Range Division and the Missabe Division, employees only holding seniority on the division to which assigned. Before the start of the ore shipping season bulletins are posted for outlying jobs which are put on during the ore shipping season and again discontinued at the close of the ore shipping season, thus resulting in the carrier maintaining a small force in the car shop during the summer months.

The claimants were regularly employed by the carrier at the Two Harbors Car Shop, Monday through Friday, with assigned hours 7 A. M. to 3:30

Under the Forty Hour Week Agreement a principle so well recognized that it is not subject to question is that when an employe changes from one assignment to another he assumes all the conditions of the new assignment, including the hours of service, work days, and rest days of that assignment as of the day he begins work thereon. The same principles must be observed in the application of the agreement rules in this case, and if they are it will immediately become evident that the claimants worked their regular hours of their new assignments and Rule 8, (a) has no application whatsoever in this case.

In summary, it is the position of the carrier in this docket, on the basis of the evidence here presented, and the agreement rules controlling, that the claims of the employes are without merit and should be denied in their entirety. First, because the claims are based on a false premise. The carrier has proved that the claimants were not assigned to work 7:00 A. M. to 3:30 P. M. in the Two Harbors Car Shop as claimed. Second, the true claims in this docket are inordinate. There is nothing in the agreement rules requiring the carrier to assign an employe so that he works the hours of both his old and new assignments on a day he changes from one position to another and from one shift to another under the bulletin rule. Third, the meaning the employes are trying to give Rule 8, (a) is contrary to the recognized application of that rule over a period of seventeen years. Fourth, the application of Rule 8, (a) for which the employes are contending is contrary to the clear meaning and intent of all the rules, including the Forty Hour Week Agreement. There is not the remotest suggestion in the rules that employes must be assigned to work two days in one day when they are changed from one job to another and from one shift to another under the bulletin rule. In fact Rule 15 (b) specifically provides otherwise in that it stipulates that employes bidding and/or assigned to bulletin jobs lose their rights to the jobs they left.

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.

On the dates specified in the claim, the claimants commenced work on new bulletined seasonal positions to which they were assigned in accordance with Rule 15. On the preceding workday their positions in the Two Harbors Car Shop were terminated.

The claims are identical to part one of the claim disposed of by our Award No. 2340. For the reasons there stated the claims are without merit.

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.