

Award No. 2512
Docket No. 2342
2-StLSW-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. 45, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—(Carmen)

ST. LOUIS-SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

(1) That under the current agreement Carmen Helpers were unjustly dealt with when the Carrier declined to compensate them for performing service outside of their regular bulletined hours since July 5, 1949.

(2) That accordingly the Carrier be ordered to additionally compensate Carmen Helpers G. O. Doolin, C. C. Simmons, C. D. Payne, and all other Helpers denied this compensation for service performed outside of their regular bulletined hours since July 5, 1949, in the amount of two hours for each date such service was performed.

EMPLOYES' STATEMENT OF FACTS: At the time this claim originated, there were three shifts of carmen helpers assigned to take care of the blue flags in the east end of the train yard at East St. Louis, Illinois, the hours of their assignments being 7:00 A. M.-3:00 P. M.; 3:00 P. M.-11:00 P. M.; and 11:00 P. M.-7:00 A. M. Prior to July 5, 1949, it had always been the practice for these carmen helpers to check in at the time clock on the repair track, and after changing clothes at the car inspectors' shanty to pick up any material needed before starting for the east end of the yard, and those coming off duty left the east end in time to get to the west end by quitting time. On July 2, 1949, Mechanical Foreman A. LePere issued instructions that effective July 5, 1949, these employes would be required to report for work at their regular place of work at the east end of the yard at their regular starting time and remain there until their regular quitting time, and he further instructed that these employes would not check their cards at the clock, but that cards would be placed in the telephone booth at the east end of the yard, the only building available at that location. These cars were to show the actual time the employe reported for work and the time they departed, and as an illustration it was suggested that "if they arrived at 6:45 A. M. or 6:50 A. M. they should show this time on their time card and when they left at 3:05 P. M. they should show that on the time

to end of the yard to put up and remove the flags. The fact that the carrier pays these three men with a view of preventing this delay is good evidence of the vital necessity for getting the business through this terminal with the least possible delay. The purpose of having a man available at all times would be defeated if the men were required to use a portion of their shift in going to and from work.

Walking to their work location would not be "service" under the agreement even if the employees were required to report at the shops. But here they were not required to report at the shops. Their instructions were to report at the east end of the yard. Clearly they did not work overtime, and are not due additional payment.

V

Without prejudice to its position that no additional payment is due, the carrier respectfully submits that in no event could the claim for two hours overtime be valid, as such claim was not handled on the property. The claim handled on the property was for one hour overtime.

Carrier also objects to the blanket claim for "all other helpers" which might involve helpers at other locations and involve different circumstances; and objects further to the claim retroactive to 1949. Attention is directed to Third Division Award 6594 (Referee Rader) in which a claim for retroactive payment was denied with the following Opinion:

"We view the date of filing claim, June 23, 1951, as the controlling date on payments for the violation. To sustain the prior date, April 17, 1950, as requested in (2) of the claim would be to set up a precedent which might permit serious abuses in the payment of like claims to any date retroactively going back to the alleged inception of the violation. The parties are familiar with the procedure as provided in the Railway Labor Act for the filing of claims. Failure to follow the procedure in the filing must defeat the request for payment back to April 17, 1950. See Awards 2852, 4281, 4282, 4428, 4437, 4964, 4966 and 5098."

VI

In conclusion the carrier respectfully reasserts that the facts in evidence show that the claim is not supported by the rules, and should 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 employees 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.

Prior to July 5, 1949 carmen helpers assigned to handle blue flags in the east end of the East St. Louis Train Yard reported for duty at the mechanical facilities near the west end of the repair track. Effective July 5, 1949 they were instructed to report for duty at the blue flag booth at the east end of the yard so that they would be available there for the full eight hour shift. They were no longer required to ring in at the west end time clock but simply recorded their time of arrival and departure at the east end booth.

It is clear that those employes have not been required to work more than eight hours per day. The employes contend that facilities for changing

clothes, etc., are inadequate but the rules do not specify where employes shall report for work nor the facilities to be provided for them.

Under the circumstances the adequacy of facilities where employes are required to report for work may be a matter for negotiation but is no basis for this claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1957.