

Award No. 2844

Docket No. 2560

2-MP-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the controlling agreement, particularly Rule 10, when R. A. Williams and A. Schoonover were forced to change shifts by action of the Carrier at the straight time rate.

2. That accordingly, the Carrier be ordered to additionally compensate R. A. Williams and A. Schoonover, Carmen, each in the amount of four (4) hours for the change of shift on February 5 and 6, 1956, respectively.

EMPLOYEES' STATEMENT OF FACTS: On January 31, 1956 Bulletin No. 19 was posted at the Union Station, Little Rock, Arkansas (see employees' Exhibit A) abolishing coach carpenter's job 3:00 P.M. to 11:00 P.M., party affected A. M. Summers, who then placed himself, under Rule 21, on the job held by R. A. Williams, hereinafter referred to as the claimant, assigned hours 7:00 A.M. to 3:00 P.M. Claimant Williams then placed himself on position held by B. E. Ford on the third shift, 11:00 P.M. to 7:00 A.M. and Mr. Ford placed himself on the position held by Mr. A. Schoonover, hereinafter referred to as the claimant, on the third trick, 11:00 P.M. to 7:00 A.M., and Claimant Schoonover then came from the third trick to the first shift, 7:00 A.M. to 3:00 P.M., a job held by Mr. Bill Wilson. The position of Bulletin No. 19, which was by the action of the carrier, required all of these men to change their positions which necessitated changing shifts of three (3) men, namely: Mr. A. M. Summers, Claimants R. A. Williams and A. Schoonover, and Mr. B. E. Ford remained on the same shift, only changing jobs.

In handling this claim locally with General Foreman Cartwright, he adjusted the claim of Mr. A. M. Summers by additionally compensating

be penalized for complying with express provisions of the agreement is not contemplated by the rule."

As you will note in Award No. 2224, the claimant there was in the same situation as Coach Carpenter A. M. Summers was in the instant dispute. Notwithstanding this fact, your Board held his claim was without merit. A similar conclusion was reached by your Board in Award No. 2225, also involving the carmen and this carrier's Texas property, formerly known as the I-GN Railroad Company.

For these reasons there is no basis for these claims and they must 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 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.

The following facts stated herein are not contradicted:

Bulletin No. 19 which abolished a job on the 3:00 P.M. to 11:00 P.M. shift resulted in a one man reduction of force. Summers, who was ousted, bumped Williams who then bumped Ford. Ford in turn bumped Schoonover who bumped Wilson.

The claim is for four (4) hours for Williams and Schoonover on the basis that Rule 10 pays time and one-half when employees are changed.

The company defends on ground that claimants changed themselves in exercise of their seniority.

Docket No. 2575, Award No. 2789, heretofore adopted by this Division, is a parallel case in substance to the instant claim. Based on the reasoning therein expressed and in the interest of consistency in application of the agreement, the Division is of the opinion that this claim should be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May, 1958.

CONCURRING OPINION OF LABOR MEMBERS TO AWARD NO. 2844

We concur with the majority's holding that the instant claim should be sustained but wish to point out that Rule 10, as interpreted by Decision SC-69, is controlling. (See Award No. 2296.)

R. W. Blake

C. E. Goodlin

T. E. Losey

E. W. Wiesner

J. B. Zink