

Award No. 3311
Docket No. 3129
2-AT&SF-EW-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)**

**ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

DISPUTE: CLAIM OF EMPLOYES:

(1) That the Carrier violated the current agreement when they refused to compensate Electrician C. W. Becker and Electrician Helper H. A. McKay for traveling on Sunday, their assigned rest day, from Newton, Kansas, to Chicago, Illinois.

(2) That accordingly the Carrier be ordered to compensate C. W. Becker and H. A. McKay at their proper rate of time and one-half for Sunday, February 10, 1957.

EMPLOYES' STATEMENT OF FACTS: Electrician C. W. Becker and Electrician Helper H. A. McKay, hereinafter referred to as claimants, are regularly employed by the Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier, and assigned to the Shop Extension forces, with headquarters at Newton, Kansas.

The claimants are paid on a monthly basis and are regularly assigned to a work week of Monday through Friday, with Saturday as a "stand-by day" and Sunday as a rest day. The claimants were instructed on Friday, February 8, 1957, to be in Chicago, Illinois, ready to work, at 8:00 A. M., Monday, February 11, 1957.

The claimants traveled to Chicago, Illinois, as instructed, on Sunday, February 10, 1957, and submitted time claims for 14½ hours each at time and one-half rate of pay for service performed on their regular assigned rest day, which the carrier declined to pay.

that such moves may now be required on Saturday without additional compensation. ("Where employes now have a bulletined or assigned rest day, conditions now applicable to such 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 . . ."). While it was felt they were fully informed, the carrier did bring this to attention of the employes concerned by posting its bulletin number 10, dated August 27, 1949, quoted in carrier's statement of facts. Almost immediately, the employes sought permission from their foremen to move on Sunday rather than Saturday. Recognizing the added family benefits and increased employe morale that would accrue from allowing the men this additional day at home, the carrier agreed that, when conditions permitted, they might exercise their own option of moving on Saturday or on Sunday with the understanding that in Saturday moves necessary personal expenses would be allowed at the outlying point but no additional compensation would be allowed for Sunday moves made at the option of the employe.

That practice has prevailed since 1949 and only rarely have the men elected to move to new job location on Saturday. In the great majority of instances they have preferred to spend the additional day with their families and move on Sunday or Sunday night. Obviously the men value the privilege allowed them to date of exercising their own option in the matter, when circumstances permit. During the entire nine year period involved, the carrier has paid no additional compensation for such Sunday moves at the option of the employe and this is the first claim processed for such compensation. The claim is not in the best interests of the employes and if it is sustained the carrier would have no recourse but to require that moves to new job locations be made on Saturdays. While this would take away some of the freedom of action so far enjoyed by the employes, it would conform fully with Rule 14 (i).

The carrier petitions the Board to decline the claim on the basis that it seeks to penalize the carrier for an action taken in the best interests of all the employes involved including other than electrical workers and, if sustained, would infringe upon certain freedoms they have thus far enjoyed with consequent reduction in employe morale.

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 has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimants Becker and McKay were monthly rated electrical workers assigned to road work under Rule 14 of the controlling agreement, with headquarters at Newton, Kansas. Their work week was Monday through Friday, with Saturday a standby day and Sunday a rest day. With respect to work on Saturday (the sixth day) we have previously interpreted the pertinent section of Rule 14 to mean that employes similarly situated to these claimants may be used to perform emergency work on such days without additional compensation, but that additional pay is due at pro rata rate when the work involved is not of an emergency nature.

Rule 14(h) provides that the rules applicable to other employees of the same craft or class shall apply to service on rest days by employees subject to Rule 14.

On Thursday, February 7, 1957, claimants were instructed to be at Chicago ready for work at 8:00 A. M., on Monday, February 11, 1957. Becker's home was at Newton, Kansas (his headquarters point) but for personal reasons he spent Sunday, February 10 at Toepka, Kansas. McKay spent the week-end at his home in Arkansas City, Kansas. They left for Chicago Sunday afternoon, arriving there at 7:05 A. M., Monday, February 11. Both men occupied Pullman space from Topeka to Chicago and were allowed the cost thereof.

Petitioner contends the claimants also were due compensation at the overtime rate for time spent traveling on their rest day. Carrier responds that Rule 14 employees have traditionally moved from one location to another on their standby day without additional pay for travel time but where the travel may be made on either Saturday or Sunday, the employees have been permitted the option of traveling on Sunday with the understanding that such opted Sunday travel will not be paid for.

In the absence of a specific contract provision to the contrary, we have previously held that travel of the character here involved is work or service performed for the carrier (Awards 973, 2120) and thus it must be held to have been such in the instant case. There is no showing that the subject travel was occasioned by an emergency situation. Thus had claimants made this trip on Saturday, instead of on Sunday, they would have been entitled to additional compensation at pro rata rate for the travel time incurred. The claimants elected to travel on Sunday instead of on Saturday for the apparent purpose of spending time at home or with friends. It is not disputed that carrier permitted Rule 14 employees to exercise this option, where possible, with the understanding that additional compensation for travel time would not result. We are of the opinion that this understanding was known to the employees. For this reason, we conclude that claimants are entitled to be compensated at no more than the pro rata rate for actual travel time spent. For Claimant McKay, travel time began at Newton, Kansas. For Claimant Becker, travel time began at departure from Topeka.

AWARD

Claim sustained in part in accordance with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1959.