

**Award 3446
Docket 3307
2-WAB-EW-'60**

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13
RAILWAY EMPLOYEES' DEPARTMENT
A.F. OF L-C. I. O.—ELECTRICAL WORKERS**

and

WABASH RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement System Installer Demont Arnold was improperly compensated for construction work performed at Chicago, Illinois, on Saturday, October 26, 1957.
2. That accordingly the Carrier be ordered to additionally compensate System Installer Demont Arnold in the amount of four (4) hours at the straight time rate of pay for Saturday October 26, 1957.

EMPLOYEES' STATEMENT OF FACTS: Demont Arnold, hereinafter referred to as the claimant, is employed as a system installer in the Communications Department of the Wabash Railroad Company, hereinafter referred to as the carrier. The claimant has an assigned headquarters at Decatur, Illinois, and is compensated on a monthly basis. He is assigned to work Monday through Friday, with Saturday as a stand-by or subject to call day and Sunday as an assigned rest day.

On Saturday, October 26, 1957, the claimant was required to perform ordinary construction work at Chicago, Illinois. The carrier has refused to additionally compensate the claimant for the performance of ordinary construction work on the sixth day of his assigned work week.

The dispute was handled with carrier officials designated to handle such affairs, who all declined to adjust the matter.

The agreement effective October 1, 1940, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the claimant was required to perform construction work at Chicago, Illinois on Saturday, October 26,

Sunday, his assigned rest day), to this Division for decision in an attempt to gain a rule providing for such allowance through the medium of an award, regardless of the fact that the work performed on the Saturday claim date was work of a type which would have been performed on Sundays prior to March 19, 1949.

As the National Railroad Adjustment Board, Second Division, is without jurisdiction to promulgate or grant rules, the contentions of the committee should be dismissed and the claims 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 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.

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

We find the facts and evidence in this case similar to those existing in Award 3445 and in our opinion a denial of this claim is required.

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 April 1960.

DISSENT OF LABOR MEMBERS TO AWARDS NO. 3445 AND 3446

It has been clearly established that prior to September 1, 1949 Rule 2, Paragraph (a) and (b) of the agreement effective October 1, 1940 provided that linemen required to work on Sundays or any of the holidays designated in Rule 3 will be paid an additional four (4) hours at pro-rata hourly basic rate for such day or days. Decision No. 33 of the Forty Hour Week Committee provided:

"For employes who had a **bulletined or assigned rest day** as of March 19, 1949 conditions then applicable to **work and additional compensation on Sundays** shall, effective September 1, 1949, apply to the sixth day of the work week."

The majority has ignored the intent of the controlling agreement rules and we must dissent from the erroneous conclusion and award of the majority.

R. W. Blake

C. E. Goodlin

T. E. Losey

E. W. Wiesner

James B. Zink