

Award No. 3845

Docket No. 3526

2-CRI&P-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the controlling Agreement Carmen Committeemen F. A. Gragg, O. B. Robertson and B. W. Rollins were unjustly denied pay while attending investigation during regular working hours on July 2, 1958.

2. That, accordingly, Carrier be ordered to compensate Committeemen Gragg, Robertson and Rollins two and one-half hours pay each at their pro rata rate.

EMPLOYES' STATEMENT OF FACTS: On July 2, 1958 the carmen's local committee attended an investigation involving Carmen Helpers Leo Clinton, D. H. Sharp and E. H. Warren at El Reno, Oklahoma. This investigation began at 2:00 P. M. on the above date and lasted until 4:30 P. M., which time was during the regular working hours of the members of the carmen's local committee.

When Carmen Committeemen Gragg, Robertson and Rollins turned in their time cards on the above date for eight (8) hours pay covering their regular assigned hours, all cards were returned to the local committeemen, with advice that no pay would be allowed the committeemen between the hours of 2:00 P. M. and 4:30 P. M. on July 2, 1958 while attending this investigation.

The carrier has declined to adjust this dispute on any acceptable basis and the Agreement effective October 16, 1948, as subsequently amended, is controlling.

POSITION OF EMPLOYES: On October 1, 1935 the Chicago, Rock Island and Pacific Railroad Company, hereinafter referred to as the carrier, and System Federation No. 6 entered into an agreement covering the six mechanical crafts. In Rule 35 of that agreement is found the following language:

On basis of the facts and circumstances in this particular case, the agreement was not violated and claim has no merit 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 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.

The Carrier's contention is that the incident here involved was a discipline investigation under Rule 34, and was not incidental to claims or grievances under Rule 32, and therefore was not within paragraph 7 of the latter rule.

But the Employes point out that this paragraph was adopted in 1935 and retained in subsequent agreements without change, and that during all that time both the Carrier and the Organizations have recognized that the local committees were entitled to represent employes in the handling of disputes, controversies and investigations with local officials during their working hours, without loss of time. Without denial by the Carrier they cite forty such instances of discipline hearings at four points in Arkansas, Kansas and Illinois between 1941 and 1958, and state that it is only a partial list. In view of this record the claim must 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 2nd day of November, 1961.