

Award No. 4189
Docket No. 4167
2-GN-CM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier erred when they compensated Carman Robert Johnson under Rule 23 when he was sent to perform emergency road work at Williston, North Dakota.

2. That accordingly, the Carrier be ordered to additionally compensate Carman Johnson, as per Rule 22(a) in the amount of two hours and 40 minutes at the time and one-half rate for June 27 and 28 and July 5, 1960, his assigned home point rest days; 40 minutes each at the time and one-half rate for working until 4:30 P. M., when his home point work hours end at 4 P. M.; 5 hours and 20 minutes at the time and one-half rate for July 2 and 3, 1960, his regular assigned days to work at his home point. This claim to continue until claimant was relieved.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carman Robert Johnson, hereinafter referred to as the claimant, at Minot, North Dakota, with assigned hours of duty from 8 A. M. to 4 P. M.—20 minutes for lunch—with Monday and Tuesday rest days.

On June 26, 1960, the claimant was instructed to proceed to Williston, North Dakota, a point approximately 120 miles from Minot, and with a second carman sent from another point, performed emergency road work.

Williston, North Dakota is an abandoned point, with all mechanics furloughed.

The claimant is requesting time and one-half of pay for working his rest days of his home point Minot, which were Monday and Tuesday. When he reported for work at Williston he was forced to accept the same rest days

junior man available, he was assigned to double over and fill the car inspector job of Mr. Prior who was on vacation. The inspector job had a work week Wednesday through Sunday. LaRue continued to work the inspector's job, according to its terms, through Sunday, and took the regularly scheduled Monday and Tuesday off.

Claim is now made for time and one-half for LaRue's service performed on Saturday and Sunday, June 23 and 24, on the ground that Rule 2 (n) and (o), which provides premium pay for work in excess of forty (40) hours or five (5) days in a work week, has been violated.

* * *

During the period when the forty hour week and the vacation agreements were being construed and connected with the basic agreement, this Board adopted those awards which cut through the conflicts by holding that the conditions of a job attach to the job and not to the occupant of it.

In harmony therewith, we are of the opinion that LaRue moved from his assignment to Prior's assignment and must accept the conditions of the job and work week fixed for it." (Emphasis ours.)

**THE CLAIM OF THE ORGANIZATION, THEREFORE,
IS WITHOUT MERIT FOR THE FOLLOWING REASONS:**

1. The claimant was properly assigned to perform vacation relief work on the assignment of Bainville Carman Culkins, and was properly compensated for that work on the basis of the assigned hours and work week of the Bainville carman, as provided in Rule 23.

2. The fact that the claimant was ordered to proceed directly to Williston, the point at which the vacationing employe had been working and would have worked if he had not gone on vacation, is irrelevant since it was the only logical and rational manner in which he could have carried out the vacation relief assignment.

3. The fact that the claimant was assigned to vacation relief work from the overtime call list is irrelevant, because the overtime call list has no more connection with emergency road trips under Rule 22 than with temporary vacancies under Rule 23, and both types of service have been assigned from the overtime call list by practice.

4. The fact that the organization is progressing a parallel claim growing out of the same set of circumstances, in which it contends that the claimant was in fact filling the assignment of Bainville Carman Culkins, is a clear admission that its allegations in this case are false and devoid of merit.

5. Past awards of this Board have consistently rejected similar claims.

For the foregoing reasons, the carrier respectfully requests that the claims of the employes 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 sole question to be determined here is whether Carman Johnson was properly compensated under Rule 23, or is entitled to be compensated additionally in accordance with Rule 22(a) concerning Emergency Road Work. There being no necessity for an interpretative discussion of the rules in question, they are not set out in these findings.

The record discloses that the Carrier maintained a truck crew of two with seniority point at Bainville, Mont., performing repair work there and at points away from Bainville. A great deal of its work was at Williston, North Dakota, about 38 miles east of Bainville.

The claimant's home point was at Minot, North Dakota, about 158 miles from Bainville.

Claimant was sent out from Minot from the overtime call list to relieve Carman Edward Culkins who was going on vacation. He was ordered directly to Williston where the work to be done had been lined up. Claimant worked nine working days (all but two hours at Williston) from June 27 through July 8, 1960, and reverted to his regular assignment at Minot on July 9.

The Organization contends that significant factors in our determination should be that Carman Johnson was sent to Williston and not to Bainville, the seniority point; and further that since he was relieving a carman who was doing emergency roadwork he should be compensated under Rule 22.

Carrier contends that this was a proper assignment to perform vacation relief work, and that the claimant has been properly compensated under Rule 23. Further, Carrier cites a claim of Carman Johnson growing out of this same period of time and alleges the admissions in that claim defeat the instant claim.

We find that the assignment of Carman Johnson to Bainville in the instant claim was under Rule 23 for vacation relief work and that he has been properly compensated in accordance with Rules 23 and 22 for the time involved in this dispute.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of April, 1963.