

Award No. 4270

Docket No. 4069

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 EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the current agreement was violated when the carrier failed to compensate Carmen A. Piocos and C. Meismer for time waiting to return to home point on May 16 and 23, 1960.

2. That accordingly, the Carrier be ordered to compensate Carmen Piocos and Meismer for fourteen and one-half (14½) hours for May 16, 1960 and thirteen and one-half (13½) hours for May 23, 1960, a total of twenty-eight (28) hours each at the time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Antonio Piocos and Charles Meismer, hereinafter referred to as the claimants, at Great Falls, Montana with assigned hours of duty from 7:30 A. M. to 4 P. M. — thirty minutes for lunch.

On May 16, 1960, claimants were instructed by their supervisor to proceed by company highway truck to Cushman, Mont. to rewheel car UTLX 9390 and upon completion of such work assignment that if time did not permit their return to home point at Great Falls by their quitting time, they were to tie up at Harlowton, Montana until 7:30 A. M. the following morning and return to Great Falls during the hours of their assignment at home point.

The duty assigned to be performed at Cushman was completed at 4:30 P. M. In conformity with instructions of their foreman, claimants proceeded to Harlowton where they tied up at 5 P. M., remaining thereat over night until 7:30 A. M. May 17, 1960 to begin their return to Great Falls.

On May 23, 1960, claimants were instructed by their supervisor to proceed by company highway truck to Cushman, Montana to rewheel car CNW 68940, and upon completion of such work assignment, that if time did not permit their return to home point at Great Falls by their quitting time, they were to tie up at Harlowton, Montana until 7:30 A. M. the following morning and return to Great Falls during the hours of their assignment at home point.

2. The organization agrees that the claimants were subject to Schedule Rules 22(a) and 22(b) while performing the work involved in this case.

3. Rule 22(b) clearly allows employees on ordinary road trips to be tied up for a non-compensated rest period of more than five hours at any time "during the time on the road."

4. The lack of limitations on the maximum length of the non-compensated rest period and the time it may be assigned under Rule 22(b) contrast sharply with the more restrictive provisions for assigning rest periods to wrecking service employees under Rule 22(c).

5. The claimants were tied up for overnight rest periods under Rule 22(b) in conformance with the carrier's responsibility and duty to operate its business in a safe, efficient and economical manner.

6. The organization's contentions that rest periods must be given before freight car repairs are completed and then only in the employee's own discretion without any regard for the safety and economy of operations, are obviously illogical, absurd and wholly unsupported by any language in the agreement.

7. The carrier's interpretation of Rules 22(a) and 22(b) is supported by past practice failure of the organization to appeal the decisions of the carrier which rejected previous similar contentions by this organization.

8. Award No. 1637 of this Board, involving rules, facts, and issues directly in point, supports the carrier's position and should be followed in this case.

For the foregoing reasons, the carrier respectfully requests that the claims of the employees 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.

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

The parties to this dispute are the same as in Award No. 4269.

The facts are essentially the same as in that Award, and the submissions contain the same type of evidence and arguments.

Our Award No. 4269 governs here and the claim must be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1963.

**DISSENT OF LABOR MEMBERS TO AWARDS
4270 THROUGH 4275, INCLUSIVE**

The holding of the majority in the above enumerated awards is essentially the same as in Award 4269; therefore, our dissent to that award applies to the present awards and the claims in each instance should have been sustained.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink