

Award No. 4271

Docket No. 4079

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 violated Article V of the August 21, 1954 Agreement, and accordingly claim should be allowed as presented, and
2. That the current agreement was violated when the Carrier failed to compensate Carmen Douglas Bensley and Antonio Picos for time waiting to return to home point on July 18, 1960, and
3. That accordingly, the Carrier be ordered to compensate Carmen Douglas Bensley and Antonio Picos fourteen and one-half (14½) hours at time and one-half rate each for July 18, 1960.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Douglas Bensley and Antonio Picos, 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 July 18, 1960, claimants were instructed by their supervisor to proceed by company highway truck to Oxford, Montana to rewheel UTLX 11732, 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 proceed to Harlowton, remain there 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 Oxford was completed by the claimants at 4:00 P. M., thereby precluding their return to Great Falls, a distance of 135 miles. In conformity with instructions of their foreman, claimants remained at Harlowton over night — waiting until 7:30 A. M., July 19, 1960 to begin their return to Great Falls.

Carrier has refused to compensate the claimants for the time spent in waiting at Harlowton from 5 P. M., July 18, 1960 to 7:30 A. M., July 19, 1960 — a period of fourteen and one-half (14½) hours.

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 facts here are essentially the same as in Award No. 4269.

The Parties are the same, and the submissions contain the same type evidence and arguments, except that the organization seeks allowance of the claim as presented under Article V(a) of the August 21, 1954 agreement, because the Carrier failed to notify in writing within 60 days whoever filed the claim or grievance, of the reasons for the disallowance.

Conceding the fact, without so finding, that the first letter of disallowance, dated September 22, 1960 did not state an adequate reason for disallowance, nevertheless the file discloses that the parties continued to process the claim on the property with no reference to Article V until the letter of the General Chairman of February 2, 1961. This demand came too late.

Under the circumstances contained in this record, we find that any procedural rights claimed under Article V have been waived by the Organization.

On its merits, this dispute is governed by our Award No. 4269 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