

Award No. 4272

Docket No. 4083

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.

2. That the current agreement was violated when the Carrier failed to compensate Carmen Julian Ciba and George Kohut for time waiting to return to home point on August 4, 1960.

3. That accordingly, the carrier be ordered to compensate Carmen Ciba and Kohut for twelve and one-half (12½) hours for August 4, 1960 each at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Julian Ciba and George Kohut, 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 August 4, 1960, claimants were instructed by their supervisor to proceed by company highway truck to Franklin, Montana to rewheel car UTLX 62877 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 Franklin was completed at 4:30 P.M. In conformity with instructions of their foreman, claimants proceeded to Harlowton where they tied up at 7 P.M., remaining thereat over night until 7:30 A.M., August 5, 1960 to begin their return to Great Falls.

Carrier has refused to compensate the claimants for the time spent in waiting at Harlowton from 7 P.M. August 4, 1960 to 7:30 A.M. August 5, 1960, a period of twelve and one-half (12½) hours.

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, and the failure of the organization to appeal the decisions of the carrier which rejected previous attempts by this organization to change the application of those rules.

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.

9. There is no merit whatsoever in the organization's contention that Article V of the August 21, 1954 National Agreement was violated.

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 facts here are essentially the same as in Award No. 4269 and 4271, and as in Award No. 4271, the Organization seeks allowance of the claims as presented under Article V(a) of the August 21, 1954 Agreement.

Our discussion of the procedural point in Award No. 4271 applies equally here, since the file shows a similar waiver of this remedy by the Organization.

The parties here are the same as in Award 4269 and 4271, the submissions contain the same type evidence and arguments, and the disposition of this dispute is governed accordingly.

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