

Award No. 4390

Docket No. 4202

2-GN-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee P. M. Williams 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 current agreement was violated when the carrier assigned Working Foreman Cech, Williston, North Dakota, to assist the carman at Bainville in changing a pair of wheels on July 2, 1960.

2. That accordingly the carrier be ordered to compensate Carman Robert Johnson for five (5) hours at the rate of time and one half for July 2, 1960 because of said violation.

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 as 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, perform emergency work at Williston from June 27 to July 1, 1960. At the completion of his work day on July 1st the claimant returned to his home point of Minot.

On July 2, 1960, car SFRD 9739 was set out at Bainville, Montana at 5:35 A. M. Bainville time or 6:35 A. M. Minot time.

The carman from Bainville, who resides in Williston, a town approximately 40 miles from Bainville, was called, reported for work at 9 A. M., and, together with the Working Foreman from Williston, proceeded to Bainville and began work on this car around 10 A. M.

Work was completed on this car around 12 noon, and the car was picked up by Extrawest 3090 at 2:15 P. M., Bainville time and 3:15 P. M. Minot time.

This dispute was handled with all carrier officers authorized to handle dispute, including the highest designated officer, with the result that he too declined to adjust it.

contended that another carman should have been sent to Bainville or Williston after he returned to Minot on July 1, 1960.

For the foregoing reasons, the carrier respectfully requests that the claim 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 claimant, Robert Johnson, was regularly assigned to Carrier's Minot, North Dakota Repair Shop. On Monday, June 27, 1960 he was temporarily assigned to the Bainville, Montana Truck Crew as a vacation relief worker for two weeks. (See Award 4189). On Friday, July 1, 1960, when claimant tied up at Williston, N. D., for the week-end, he returned to his home in Minot, 122 miles east of Williston.

On Saturday, July 2, 1960 an emergency arose when a refrigerated car of beer developed a defective journal and had to be set out at Bainville. The Bainville truck crew, to which claimant had been assigned, and which had tied up for the week-end at Williston, was called to make the repairs on this car. Claimant, by being 122 miles distant was not available to participate in the work. As a result of claimant's absence, and to meet the emergency the Carrier called upon its Williston working foreman to accompany the Bainville regular carman to the scene and to assist him in changing the wheels. The Organization asserts that this action constituted a violation of the Agreement and requests that the Claimant be paid for five hours at the time and one-half rate.

Numerous awards have been cited to us to aid us in arriving at a decision in this case. We believe that of the awards mentioned No. 3938 of this Division clearly expresses the intent and meaning of the rules which are similar to the ones involved herein. In Award No. 3938, Referee Howard A. Johnson, in describing who should perform work said, "*** The work primarily belongs to the mechanic, rather than to the supervisor (foreman), and if neither mechanic nor foreman is at hand, there must be some tenable reason for sending out a foreman instead; otherwise craft jurisdiction is unnecessarily, and therefore unreasonably infringed."

The claimant, by absenting himself from the scene of his job and by going to his home 122 miles distant was not at hand to perform work. Moreover, the facts show that the working foreman was the only qualified and available man who could assist the regular carman in changing the wheels on the set out refrigerator car.

Because of the emergent situation we are of the belief that the Carrier not only had a tenable reason for using the working foreman but that also

his use was made mandatory in these circumstances by reason of the claimant's absence. The claim should 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 5th day of February, 1964.