

Award No. 4477

Docket No. 4312

2-GTW-EW '64

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. 92, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)**

GRAND TRUNK WESTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Electrician George W. Weikel, Brush Street Station, Detroit, Michigan, is entitled to be additionally compensated for eight (8) hours at the straight time rate, due to not being allowed to finish his work week assignment on Sunday, August 20, 1961.
2. That Electrician George W. Weikel is entitled to be additionally compensated in the amount of four (4) hours for required service outside of his regular bulletined assignment on Monday, August 21, 1961.

EMPLOYEES' STATEMENT OF FACTS: There are two electricians assigned at the Brush Street Coach Yard, Detroit, Michigan, Grand Trunk Western Railroad Company, hereinafter referred to as the carrier, on a one-shift, seven-day assignment.

Electrician George W. Weikel, hereinafter referred to as the claimant, has an assignment of Wednesday through Sunday with Monday and Tuesday as rest days.

Electrician B. Mrozowski, who has an assignment of Monday through Friday, with Saturday and Sunday as rest days, went on his scheduled vacation, effective Monday, August 21, 1961.

Claimant Weikel was instructed by Car Foreman H. E. Gerhold not to work the last day of his assigned work week (Sunday, August 20th), but to report for work on Monday, August 21st, the first day of Mrozowski's assignment.

On August 21, 1961, Traveling Representative C. C. Neubaum held a conference with Carrier's Car Foreman H. Gerhold on the matter which resulted

"(a) All claims or grievances must be presented in writing by or on behalf of the employe involved to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employe or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances."

Car Foreman H. E. Gerhold has been designated as the first officer of the carrier to receive claims from Detroit Car Department employes. The August 21, 1961 claim has never been submitted, in writing, to Car Foreman Gerhold, as required by the foregoing quoted Section 1(a) of Article V. The August 21, 1961 claim was first received in writing by General Superintendent Equipment, Mr. H. Askew, in letter dated November 22, 1961, which was 93 days subsequent to the date of the occurrence on which such claim was based. The November 22, 1961 letter is quoted on Page 6 of this submission.

The instant claims should be denied and carrier requests that this Board so award for the following reasons:

1. The August 20, 1961 claim is not supported by the Working Agreement, and must fail.
2. The August 21, 1961 claim was not properly submitted under the provisions of Section 1(a) of Article V of the August 21, 1954 Agreement and is not, therefore, properly before this Board.
3. Even had the August 21, 1961 claim been properly progressed under the provisions of the time limit rule, such claim is not merited under the provisions of Rule 1(1) of the Working Agreement, and must fail.

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 waived right of appearance at hearing thereon.

Claimant, an electrician assigned to the Brush Street Coach Yard of the Carrier at Detroit, Michigan, held a work assignment of Wednesday through Sunday; Monday and Tuesday rest days.

The other electrician assigned to Brush Street (Mrozowski) held a work assignment of Monday through Friday; Saturday and Sunday rest days.

Mrozowski went on his scheduled vacation beginning Monday, August 21, 1961.

Claimant was instructed not to work on Sunday, August 20 (the last day of his work week), but to report on Monday, August 21, as vacation relief for Mrozowski, for a period of two weeks.

Claimant complied, but while working on Monday, August 21, an arrangement was made to assign a furloughed electrician from the Motive Power Department at Detroit to perform Mrozowski's vacation relief, and Claimant was returned to his regular assignment on Tuesday, August 22, his regular rest day.

Claimant is seeking compensation for eight hours at the straight time rate for not being allowed to fill out his regular work week on Sunday, August 20, and an additional four hours for service outside his regular bulletined assignment on Monday, August 21.

Claimant bases the first part of his claim upon Rule 8, which reads, in part, as follows:

"When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours to equalize the time. * * *"

But this rule has no application here because there was no contemplated overtime work to which Claimant was being assigned. He was being assigned to vacation relief, and the Vacation Agreement, Section 10 (a), prescribes the rates of pay for vacation relief, none of which refer to overtime pay.

Carrier asserts that Claimant has pointed to no specific rule of the Controlling Agreement which prohibits it from blanking a regular assignment on any given date. However, an overall reading of this Agreement negates the asserted right of the Carrier to act as it did in blanking Claimant's assignment on August 20, 1961. The provisions concerning the forty hour week, the reduction of the work week to thirty-two hours when a holiday occurs in that week, the bulletining and filling of vacancies, all give support to the Claimant's position that the last day of his work week here was improperly taken away from him by the Carrier. Accordingly, the claim for August 20, 1961 is sustained.

The second part of this claim must be denied on its merits, because, as we have previously stated, this was a vacation relief assignment, and Section 10 (a) prescribes the rates of pay for vacation relief work and makes no mention of overtime.

AWARD

Claim 1: Sustained.

Claim 2: Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 10th day of March, 1964.