

Award No. 4585
Docket No. 4408
2-GN-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee J. Harvey Daly 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 failed to compensate Carmen Philip Frediani and Antonio Pioscos for time waiting to return to home point on June 1, 1961, and

2. That accordingly, the Carrier be ordered to compensate Carmen Philip Frediani and Antonio Pioscos thirteen and one-half (13½) hours at time and one-half rate for June 1, 1961.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Philip Frediani and Antonio Pioscos, 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 June 1, 1961, claimants were instructed by their supervisor to proceed by company highway truck to Cushman, Montana to rewheel car NYC 29189 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 thereat 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 by the claimants at 4:30 P. M., thereby precluding their return to Great Falls by 4 P. M. In conformity with instructions of their foreman, claimants proceeded to Harlowton, tying up there at 6 P. M., remained there overnight — waiting until 7:30 A. M. June 2, 1961 to begin their return to Great Falls.

Carrier has refused to compensate the claimants for the time spent in waiting at Harlowton from 6 P. M. June 1, 1961 to 7:30 A. M. June 2, 1961 — a period of thirteen and one-half (13½) hours.

**THE CLAIM OF THE ORGANIZATION, THEREFORE,
IS WITHOUT MERIT FOR THE FOLLOWING REASONS:**

1. It is the fundamental right of the carrier to assign carmen on road trips in whatever manner is necessary or desirable, except as that freedom has been limited by law or some clear and unmistakable language in the collective bargaining agreement.
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 employes 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 employes 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 employe'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.

For the foregoing reasons, the carrier respectfully requests that the claims 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 waived right of appearance at hearing thereon.

The facts are essentially the same as in Award No. 4584 and the submissions contain similar evidence and arguments.

The Parties agree that a like Award should be rendered in both cases. Consequently, in keeping with the reasons set forth in Award No. 4584 the claims 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 30th day of October 1964.