

Award No. 4641

Docket No. 4587

2-L&N-EW-'65

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: (1) That the current agreements were violated when the Carrier, by arbitrary and unilateral action, abolished effective May 27, 1962, all second shift electrician jobs in the Traction Motor Department; jobs which have always been Monday through Friday assignments with Saturday and Sunday as rest days and covered by a separate overtime board; while continuing to have the same work and duties performed by junior employees improperly moved from their regularly assigned positions in the Running Repair Shop which is also covered by another overtime board, while at the same time electricians were being called and worked in the Running Repair Shop from the Running Repair Shop Overtime Board, thereby causing damage to be done to all employees of the electrical craft in general and specifically to the electricians on the Traction Motor Department Miscellaneous Overtime Board.

(2) That accordingly, the Carrier be ordered to additionally compensate the electricians on the Traction Motor Department Miscellaneous Overtime Board, namely: H. E. Patterson, F. A. Schmitz, W. G. Brooks, W. T. Sander, I. L. Schoppenhorst, F. W. Sobolewski, J. G. Leshner, R. T. Denkler, R. E. Drake, J. O. Sullivan, W. D. Hagan, J. W. Quaack, J. B. Fowler, W. C. Sparks, I. Decker, V. L. Pace, C. M. Sweat, B. Combs, J. D. Bryan, H. Webb, W. Mauzes, and H. W. Hagan, at the time and one-half rate and each in his proper turn for all time an electrician from the Running Repair Department was improperly used to perform work in the Traction Motor Department subsequent to May 27, 1962.

EMPLOYEES' STATEMENT OF FACTS: The Louisville and Nashville Railroad, hereinafter referred to as the carrier, maintains a large repair shop at Louisville, Kentucky (South Louisville shops) comprised of several departments and sub-departments. Each sub-department has a separate and independently operated overtime board, or boards, set up for the purpose of distributing as equally as possible the overtime in each sub-department.

The traction motor department is one such sub-department where for more than ten (10) years several electricians on both the first and second

assignment, or temporary vacancies.”

Since there was no bulletined vacancy pending assignment, Rule 18(f) could not apply.

c. Employees of the running repair gang used to perform traction motor repairs were working on their regular shift at straight time rate of pay and no overtime was involved, therefore, the overtime rule has no bearing on the case.

If the employees for whom claim was made desired to share in overtime work performed in the diesel shop, all they had to do was make application and their names would have been placed on the board thereby assuring them of an equal share of overtime worked. There is only one seniority list of electricians in South Louisville shops and any or all who desire to participate in overtime work may apply.

Referee Edward F. Carter of this same board in denying a claim of the electrical workers covered by Award No. 2377 stated as follows:

“It is only when the carrier pursues an unusual course for the evident purpose of depriving employes of the work which they ordinarily and traditionally perform that a basis for claim exists.”

Carrier in no way departed from well recognized practice by exercising managerial prerogative in this case and submits that in view of all the circumstances, claim should not be sustained.

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 basic claim and relief requested relates to an alleged violation of the rights of those on the Traction Motor overtime board under the overtime board agreement, by the assignment of a second shift electrician from the Running Repair Shop to perform work in the Traction Motor Department and calling electricians from the Running Repair board for overtime work.

The complaint is not valid insofar as work was performed at straight time with no overtime involved. It does appear that the rights of employes holding bid places on the Traction Motor Department overtime board were invaded when employes were called for overtime work from the Running Repair board while a Running Repair electrician was performing necessary extra second shift work in the Traction Motor Department.

Accordingly we think the claim is valid for the dates set forth in the employes' Exhibit D but not for other dates. In accordance with our prior

awards the claim for time and one-half rate is not allowable but will be sustained at pro-rata rate only.

AWARD

Claim sustained to the extent stated in the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: William B. Jones
Chairman

E. J. McDermott
Vice-Chairman

Dated at Chicago, Illinois, this 19th day of February, 1965.