

Award No. 4698

Docket No. 4503

2-UP-CM-'65

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Bernard J. Seff when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: (1) That on November 1, 1961 at Kansas City, Kansas the Carrier violated the controlling Agreement, particularly Rules 1 and 37 thereof, in docking employees after blocking the entrance to the Shop with a cut of cars, which were being switched by switch crews.

(2) That accordingly, the Carrier be ordered to pay the following employees, T. Vickland, D. Harmon, A. Brown, W. Hanson, R. Hines, E. Rosendale, J. Long, R. Cassidy, E. Denney, J. Zawacki, I. Rodman, J. Lucky, F. Draskovich, D. Mendenhall, W. King and G. Klepac 20 minutes each at the straight time rate.

EMPLOYEES' STATEMENT OF FACTS: Car Department employees T. Vickland, D. Harmon, A. Brown, W. Hanson, R. Hines, E. Rosendale, J. Long, R. Cassidy, E. Denney, J. Zawacki, I. Rodman, J. Lucky, F. Draskovich, D. Mendenhall, W. King and G. Klepac, hereinafter referred to as claimants, are regularly employed as carmen by the Union Pacific Railroad Co., hereinafter referred to as the carrier, at Kansas City, Kansas.

On November 1, 1961 a switch crew, while handling a cut of cars, blocked the crossing used by the employees to get to the location of their assigned positions, making it impossible for them to report ready for work at 8:00 A. M. This crossing was blocked from 7:25 A. M. until 8:10 A. M.

The above named claimants were all assigned to commence work at 8:00 A. M. in accordance with Rules 4 and 5 of the current agreement.

The above stated fact, that these claimants were docked the 20 minutes claimed herein, is evidenced by Mr. Neuhart's letter of March 26, 1962.

A similar claim to this was made by the employees on September 29, 1949 as evidenced by Master Mechanic H. T. Snyders' letter of November 4, 1949. This matter was resolved without claim being paid account violation, but on the basis that no further deduction would be made from employees late to work on this account. It is evident that this has been the practice as no deductions

Employees have a responsibility to allow themselves sufficient time in traveling to their place of employment to provide for traffic delays that can reasonably be anticipated, including the blocking of grade crossings. Failing to do so, they must accept the penalty of reporting late for work and not expect this board to write a new rule to make them whole with the 85 other employees who did report for work on time by either allowing themselves adequate traveling time, or by use of the alternate entrance to the shop grounds.

Claim of the organization for an adjustment to compensate the employees involved in this dispute for 20 minutes time not worked, should be denied.

The carrier reserves the right, if and when it is furnished with the ex parte submission filed by the employees' organization in this case, to make such further answer and defense as it may deem necessary and proper in relation to any allegations or claims that may be set forth in such ex parte submission that cannot be forecast at this time and may not be answered in this submission.

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.

On November 1, 1961 the sixteen claimants in this dispute were unable to reach their work stations because the roadway leading to the Shops (which was their work station) was blocked by a cut of cars being switched over a crossing.

Because of this obstruction the men reported to work 20 minutes late and were docked this time. The Carrier argues that there is an alternate road, four miles away, which the men could have taken; further that 85 other employees did reach their work stations on time and therefore the late arrival at work could have been avoided in the same way as the 85 employees who reported to work on time; the men are claiming pay for work not performed and there is no provision in the current Agreement for compensation under such circumstances.

There is no evidence in the record showing that the failure of the men to arrive at their work stations on time was due to any fault on their part. Nor is there any evidence to show that the Claimants had any control over the cars that blocked the roadway.

Absent proof of facts in the record that the Claimants were late due to any fault on their part we cannot agree with the Carrier that they should have suffered a loss of 20 minutes of compensation.

AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April, 1965.