

Award No. 4704

Docket No. 4529

2-GTW-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. 92, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

GRAND TRUNK WESTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That Carman Helper Robert C. Jerlecki is entitled to be additionally compensated for the first shift of his regular assignment after the completion of the temporary assignment, and,

2. That Robert C. Jerlecki is entitled to be additionally compensated at the overtime rate for change of shift, due to the return to his own assignment.

EMPLOYEES' STATEMENT OF FACTS: Carman Helper Robert C. Jerlecki, hereinafter referred to as the Claimant, was regularly employed in the Port Huron Inspection Yards as a helper, with assigned hours of 4:00 P.M. to 12:00 Midnight, Saturday thru Wednesday, with Thursday and Friday as rest days.

On Thursday, June 28, 1962, claimant was requested by Car Foreman Mix to fill the assignment of Car Inspector A. T. Nuske, who was off account of injury.

Car Inspector A. T. Nuske's assignment was 8:00 A.M. to 4:00 P.M. Monday thru Friday, with Saturday and Sunday as rest days.

Claimant filled the assignment until Tuesday, July 3, 1962, assuming the rest days of the position.

At about 4:00 P.M. on July 2nd, Car Inspector Nuske was released by the company doctor to return to work and Mr. Nuske so informed Car Foreman Mix of the fact at about 4:30 P.M. that date.

The instant claim has been progressed to each official in their proper order as provided in Rule 29, to the highest officer of the carrier, as provided in Rule 30, without satisfactory settlement.

Agreement dated at Detroit, Michigan, July 26, 1950 and effective as of September 1, 1949, as subsequently amended, is controlling.

temporary vacancy he was working on a first trick assignment had terminated. Award 4100 covers a dispute between this carrier and the Carmen of System Federation No. 92, involving the question of whether Rule 10—Overtime Changing Shifts, of the current shopcrafts' agreement, was applicable in cases where an employe makes a permanent change in shifts at the direction of management. Award 4100 would have no bearing on the instant dispute because the only question involved herein is whether the temporary vacancy on the 8:00 A. M. Car Inspector's assignment terminated on July 3rd or July 4th, 1962.

The instant claim is not supported by the current working agreement and is therefore without merit.

Claimant Jerlecki's claim for July 3, 1962 was handled in the usual manner on the property and has been denied by the Vice President and General Manager, the highest officer of the carrier designated to handle claims or grievances.

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.

On June 28, 1962, Claimant Jerlecki, who was working a regular 4:00 P. M. to 12:00 midnight Carman Helper's assignment, was instructed to fill a temporary vacancy of unknown duration, on an 8:00 A. M. to 4:00 P. M. assignment. For his change in shifts on June 28, 1962, Mr. Jerlecki was paid at the rate of time and one-half as provided for in Rule 10—Overtime Changing Shifts. The temporary vacancy on the 8:00 A. M. to 4:00 P. M. assignment terminated on July 4, 1962, which was the date the regular incumbent of that assignment, who had been on leave of absence due to an injury, became available for return to service. Claimant therefore returned to work on his regular 4:00 P. M. to 12:00 midnight assignment on July 4th and received the time and one-half rate of pay for working thereon in accordance with the provisions of Rule 10 and Rule 3—Rest Day and Holiday Work.

Petitioner contends that because the last shift worked by the Claimant on the 8:00 A. M. to 4:00 P. M. temporary vacancy ended at 4:00 P. M. on July 3, 1962, the temporary vacancy itself terminated at that time and not at 8:00 A. M. on July 4th as argued by the Carrier. Based on this contention the Petitioner alleges that the Carrier improperly held Mr. Jerlecki off his regular 4:00 P. M. to 12:00 midnight assignment on July 3rd and that he is therefore entitled to 8 hours pay, pro rata rate, as the result of being held off his regular assignment on that date. Petitioner further contends that had Mr. Jerlecki been permitted to return to his regular assignment on July 3rd he would also have been entitled to receive the time and one-half rate of pay for changing shifts on that date and therefore requests payment of an additional 4 hours pay at the pro rata rate.

The Carrier denied the claim on the basis that the vacancy occupied by

the Claimant did not terminate until 8:00 A. M. on July 4, 1962 and cited, in support of its position, Second Division Award 1674 which states in pertinent part:

"* * * It is evident that claimant's work day began at 8:00 A. M. and consequently his 24 hour day begins at 8:00 A. M. of one day and ends at 8:00 A. M. the next as stated in Awards 1485 and 1564. * * *."

We see no reason to depart from the reasoning in the Awards quoted supra.

AWARD

Claim denied.

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.