

Award No. 4761

Docket No. 4608

2-GN-CM-'65

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 101, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C.I.O. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the current agreement was violated when the Carrier failed to compensate Carmen Julian Ciba and Joseph Janikula for time waiting to return to home point on September 27, 1962.

2. That accordingly, the Carrier be ordered to compensate Carmen Ciba and Janikula for fourteen and one-half (14½) hours for September 27, 1962 each at the time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Ciba and Janikula, 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 September 27, 1963, claimants were instructed by their supervisor to proceed by company highway truck to Shelby, Montana to make repairs to cars CGW 8413 and NATX 9137 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 tie up at Shelby, Montana 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 Shelby was completed at 5 P.M. In conformity with instructions of their foreman, claimants proceeded to Shelby where they tied up, remaining thereat over night until 7:30 A.M. September 28, 1962 to begin their return to Great Falls.

Carrier has refused to compensate the claimants for the time spent in waiting at Shelby from 5 P.M. September 27, 1962 to 7:30 A.M. September 28, 1962, a period of fourteen and one-half (14½) hours.

This dispute has been handled with all carrier officers designated to handle such matters, all of whom have declined to adjust it.

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 was followed by this Board in recent Awards 4269-4275, 4382 and 4383, involving the same parties, the same rules and essentially identical facts. Therefore, the doctrine of stare decisis is applicable.

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.

This claim involves precisely the same Rules and essentially the same conditions as those in Award No. 4760 and necessitates the same conclusion.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1965.

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