

Award No. 4816

Docket No. 4770

2-NYNH&H-CM-'66

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Levi M. Hall when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 17, RAILWAY EMPLOYEES'

DEPARTMENT, A. F. OF L. - C. I. O. (Carmen)

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

DISPUTE: CLAIM TO EMPLOYES:

1. That under the terms of the current agreement, Rule 4, paragraph 7, the New York, New Haven & Hartford Railroad Company improperly compensated Car Inspectors H. Fay and R. Harvie at the time and one-half rate of pay for services performed after the sixteenth (16th) hour, on Saturday, February 2, 1963.

2. That accordingly the New York, New Haven & Hartford Railroad Company be ordered to additionally compensate car inspectors H. Fay and R. Harvie, each, in the amount one (1) hours, at the straight time rate of pay.

EMPLOYEES STATEMENT OF FACTS: The New York, New Haven & Hartford Railroad Company, hereinafter referred to as the carrier, maintains a car yard facility at New Haven, Conn., where the carrier employes H. Fay and R. Harvie, hereinafter referred to as the claimants, as car inspectors, with regularly assigned hours of 4:00 P.M. to 12:00 mid., Monday thru Friday, Sunday & Saturday rest days.

On Saturday, February 2, 1963, the claimants were called to unload trailer cars, at 8:00 A.M. The claimants completed the duties for which they were called and were released at 6:00 P.M., a total of ten (10) hours.

The claimants worked their regular assignment, 4:00 P.M. to 12:00 mid., on Friday, February 1, 1963.

For the services rendered by the claimants on February 2, 1963, they were paid ten (10) hours at the time and one-half rate of pay. This dispute has been handled with all carrier officials up to and including the highest official designated by the carrier to handle such disputes, all of whom have refused to settle the matter.

The agreement effective September 1, 1949, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that under the terms of the cur-

the difference between "straight time and time and one-half for his regular tour pursuant to Rule 5 (b), as follows:

'(b) All time worked in excess of eight hours in any twenty-four hour period, except transfer time not exceeding thirty minutes or in the exercise of seniority by bidding or bumping, will be paid for at one and one-half times the pro rata rate.'

Petitioner cites neither precedent nor argument, except that since service performed on August 15 and 16 fell within a twenty-four hour period the language of Rule 5 (b) must apply. With this contention we cannot agree.

What is determinative here is: When did the 'twenty-four hour period' start? From such authority as has been presented to us we are of the opinion that the twenty-four hour period starts with the beginning of the regular assignment, which in this case was 3 P.M., August 16. This conclusion necessarily carries with it the corollary that a regular assignment is paid at pro rata rate, notwithstanding that prior service within an overlapping twenty-four hours might together with the hour of regular assignment have resulted in a total of hours in excess of eight. The claim will be denied.

A W A R D

"Claim denied."

This is exactly carrier's contention in the case at hand. In our denial decision of March 12, 1964, we stated:

"In the twenty-four hour period commencing at 4:00 P.M. on February 1st, employees worked their regular shift from 4:00 P.M. to 12:00 Midnight and they worked on their rest day, February 2nd, from 8:00 A.M. to 4:00 P.M. This is a total of sixteen hours. As they did not perform service beyond sixteen hours in the twenty-four hour period, they were not entitled to payment at double time for service performed from 4:00 P.M. to 6:00 P.M. on February 2nd, as claimed."

With the exception of Award No. 1245 of the Fourth Division, all of the facts and evidence contained herein were discussed with or presented to the Organization Representative and Award 1245 was available to him.

The claim is not supported by the rule cited and we respectfully request that a denial decision be rendered.

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 waived right of appearance at hearing thereon.

Claimants are car inspectors whose regularly assigned hours are 4:00 P.M. to 12:00 Midnight, Monday through Friday, Saturday and Sunday rest days. Claimants had worked their regular assignments 4:00 P.M. to 12:00 Midnight on February 1,

1963, and were called to unload trailer cars at 8:00 A.M. on February 2, 1963, completing their duties and being released at 6:00 P.M. They were paid for ten (10) hours at the time and one-half rate of pay. Claimants contend that they worked eighteen (18) hours, computed from the starting time of their regular assignment and having worked over sixteen (16) hours were entitled to a double time rate of pay for the last two hours.

Claimants are relying on Rule 4, paragraph 7, of the Agreement, the pertinent part of which reads, as follows:

"(7) All service performed beyond sixteen (16) hours of service in any twenty-four (24) hour period computed from the starting time of the employee's regular shift and ending when the emergency work which necessitated the overtime has been completed, shall be paid for at the rate of double time."

Carrier's position is that in order to be eligible for payment at double time an employee must perform service beyond sixteen (16) hours in any twenty four (24) hour period and that the twenty-four hour period in the instant case would commence at 4:00 P.M., February 1, 1963, and would end at 4:00 P.M., February 2, 1963, hence Claimants would not be entitled to double time for the last two hours of emergency work after 4:00 P.M. beyond the end of twenty four hour period.

In contract interpretation words are given their plain and ordinary meaning. It follows that words of general description should generally yield to words that are more specific.

Rule 4 (7) is quite specific in that it provides that "all service performed beyond sixteen (16) hours of service in any **twenty four (24) hour period computed from starting time of employee's regular shift ***** shall be paid for at the rate of double time." (Underscoring ours) It appears conclusively as required by the foregoing Rule that the service was not performed within the twenty-four (24) hour period. Consequently, claimants were entitled to pay at time and a half rate from 4:00 to 6:00 P.M., February 2, 1963, which has been paid.

See Fourth Division Award 1245.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 9th day of March, 1966.

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