

Award No. 5406
Docket No. 5269
2-GM&O-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 29, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)

GULF, MOBILE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Carmen W. B. Fornea was improperly compensated for service performed on Decoration Day, May 31, 1965, which day was also his rest day.

2. That accordingly, the Carrier be ordered to additionally compensate Carmen W. B. Fornea eight (8) hours at the time and one-half rate of pay for service performed on the holiday.

EMPLOYEES' STATEMENT OF FACTS: W. B. Fornea, hereinafter referred to as the claimant, is regularly employed as a Carman by the Gulf, Mobile and Ohio Railroad, hereinafter referred to as the Carrier, at Bogalusa, Louisiana, with an assigned work week of Tuesday through Saturday, with Sunday and Monday rest days.

Monday, May 31, 1965, Decoration Day was one of Claimants rest days and Claimant was called from the overtime board to work in the train yard.

Claim was made in the amount of eight (8) hours at the time and one-half rate in favor of Claimant for working on his rest day as provided under rule 7 of the Controlling Agreement. Claim was also made for eight (8) hours at the time and one-half rate for working on a holiday as provided under rule 6 of the Agreement.

Carrier paid Claimant for work performed on his rest day but declined claim for work performed on the holiday.

The above facts are verified by copy of letter dated June 28, 1965 to General Chairman C. E. Wheeler by General Master Mechanic, P. E. Dewitt, attached hereto as Exhibit A.

This dispute has been handled with all Carrier officials up to and including the highest officer designated by the company, and all have declined to make satisfactory adjustment.

This claim was initiated as the result of Third Division sustaining Awards involving Telegraphers and that the Awards in question involve different Agreements and different rules not comparable to the Shop Crafts rules, and which situation was brought out forcibly by Third Division Award No. 14240 and Award No. 6 of the Special Board of Adjustment No. 564;

No employe represented by the Shop Crafts on this property has heretofore ever claimed or received pay as demanded in this case despite the fact the rules in question have been in existence for more than seventeen years, and other rules involving duplicate overtime payments for more than forty years;

The Employees' claim is illogical, unreasonable and unfounded and is neither supported by the rules of the Agreement nor past practice; and

Respectfully requests that the claim be denied in its entirety.

(Exhibits not reproduced.)

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.

Claimant worked his assigned rest day which also was a recognized legal holiday on May 30, 1965. The claim is for an additional eight hours pay at the time and one-half rate for performing service on the holiday, which coincidentally was his rest day

The fundamental issue involved in this claim is the same as that which was considered by this Division in Award No. 5405, although different parties, holidays and agreements are involved. Therefore, we find the Findings in Award 5405 controlling in the instant dispute. Accordingly, the claim will be sustained.

AWARD

Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1968.

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