

(Advance copy. The usual printed copies will be sent later.)

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6344
Docket No. 6167
2-SLSF-SM-'72

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

Parties to Dispute: (System Federation No. 22, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Sheet Metal Workers)
(
(St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. That the Carrier violated the current agreement, particularly Rule 13 at Tulsa, Oklahoma when they refused to pay Sheet Metal Worker Don Didier time and one-half for the first change of shift after being displaced by an older man on Seniority Roster.
2. That accordingly the Carrier be ordered to additionally compensate Sheet Metal Worker Don Didier in the amount of four (4) hours at the pro rata rate of pay.

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.

Prior to August 8, 1970 the Claimant worked an 8:00 A.M. to 4:00 P.M. Saturday through Wednesday shift. On this date a returning serviceman with greater seniority than the Claimant exercised his rights and displaced the Claimant. The Claimant then elected to take an open position on another shift.

The Claimant relies on Rule 13 to establish his overtime claim:

"Rule 13. Employees changed from one shift to another will be paid overtime rate for the first shift of each

"change. Employees working two shifts or more on a new shift shall be considered transferred. This rule will not apply when shifts are changed in the exercising of seniority or exchanged at the request of the employees involved." (Emphasis added)

The purpose of this rule as interpreted in prior awards is to penalize Carriers when they indiscriminately change shift assignments of employees. The overtime rate penalty, however, does not apply when employees are exercising seniority or changing shifts for their benefit. In this case the Claimant was merely exercising his seniority rights so the claim must be denied by this Board.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 7th day of July, 1972.