

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

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6375
Docket No. 6222
2-C&O-CM-'72

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute: (System Federation No. 41, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(The Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That carman tentative D. L. Jones regularly assigned as Lead Car Inspector was improperly compensated Wednesday, May 27, 1970 (his second rest day of his regular assigned work week) when only allowed time and one-half ($1\frac{1}{2}$) rate; in violation of National Agreement signed April 24, 1970.
2. Accordingly Jones is entitled to be additionally compensated the difference between time and one-half ($1\frac{1}{2}$) and double time rate for eight (8) hours at Lead Car Inspector's applicable rate.

(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 was scheduled to and did work his regular assignment five successive days starting at 11 P.M. and ending at 7 A.M. each day. At 7 A.M. on the fifth day of work, claimant was assigned to continue to work until 3 P.M. He was paid one and one half times his regular rate of pay. He was then assigned work starting the next day at 7 A.M. until 3 P.M. for which he was paid one and one half times his regular rate of pay.

The Organization contends in effect, that claimant completed his five successive days regular assigned hours of work and was then entitled to rest for two successive days starting after he finished the fifth day's regular assignment from 11 P.M. to 7 A.M. In this event, it is claimed, the first extra assignment from 7 A.M. to 3 P.M. occurred on his first rest day, the second extra assignment from 7 A.M. to 3 P.M. occurred on his second rest day and therefore, claimant should receive double time for the second extra assignment. Article V of Agreement of

April 24, 1970 which applies states: "All agreements -- are amended to provide that service performed--on the second rest day--shall be paid at double the -- rate provided he has worked all the hours of his assignment in that work week and has worked on the first rest day of his work week,--".

The Carrier has no quarrel with this provision. It argues, however, that claimant's first extra assignment was overtime paid for according to Rule 6(a) of the Agreement which states: "All overtime continuous with regular bulletined hours will be paid for at the rate of time and one half--." Carrier then argues that each 24 hour day started when claimant began his assignment at 11 P.M., and contends that the first extra assignment was during his fifth day of work, not on his first rest day; the second extra assignment was during the sixth 24 hour period or rest day so that no double time was involved.

It is clear that the first extra assignment continued immediately after the regular bulletined hours. Each day of a five day work week is a twenty four hour period followed by two twenty four hour periods of rest. Awards in the Second, Third and Fourth Divisions hold that the twenty four hour periods start with the beginning of the bulletined hours which in this case is 11 P.M. If the rest day began at 7 A.M. at the end of the regular assignment for the fifth day, it should follow that every day would be a rest day starting at 7 A.M. It could not be argued successfully that an extra assignment starting at 7 A.M. on the third or fourth day of the work week was performed on a rest day any more than if it started at 7 A.M. on the fifth day of work.

The first extra assignment was overtime under Rule 6(a), the second one was on the first rest day. See Awards: Second Division 1485, 1564, 1674, 4704; Third Division 2030, 2346, 9247, 9839, 12115, 13062, 14927, 17824; Fourth Division 1173.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killian
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September, 1972.