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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6423  
Docket No. 6273  
2-CMSTP&P-CM-'73

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

Parties to Dispute:

{ System Federation No. 76, Railway Employees'  
Department, A. F. of L. - C. I. O.  
(Carmen)

{ Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Carrier violated the Current Agreement, Rules "10" and "8" when it failed to properly compensate the following named Carmen on January 17, 1971 when they were called for wrecking service in excess of one (1) hour before their regular starting time. T. R. Flaherty, R. M. Nelson, C. A. Wacks. W. Peterson, Wm. Sigerseeth, and R. L. Darsie.
2. That accordingly the Carrier be ordered to compensate the above named Carmen for five (5) hours at the prevailing straight time rate for January 17, 1971 in addition to compensation already received.

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, Carmen regularly assigned to Carrier's St. Paul, Minnesota wrecking crew, were called out at 6:15 A.M., Sunday, January 17, 1971 for emergency road service on a derailment which had occurred at Rosemont, Minnesota. Upon completion of work at that location, they were assigned to emergency work on a derailment in Carrier's St. Paul Yards. They completed the emergency assignments and returned to their home station at 2:45 A.M., Monday, January 18, 1971. They were paid time and one-half their hourly rate of pay for all hours involved. Sunday was a bulletined rest day for all the claimants and their regular starting time on regular days is 7:30 A.M.

Petitioner, in behalf of the claimants, seeks compensation for claimants for the one hour and fifteen minutes between 6:15 A.M. and 7:30 A.M., January 17, 1971 at the rate and manner provided for in Rules 8 (f) and (g) of the controlling

agreement which read:

"RULE 8 - OVERTIME OUTSIDE BULLETINED HOURS

(f) Employees relieved for the day, then called or required to return to work, will be granted five (5) hours' pay at straight time rate for three hours and twenty minutes' (3'20") work or less and shall be required to do only such work as called for.

(g) Employees will be allowed time and one-half on the minute basis for service performed continuously in advance of the regular working period with a minimum of one (1) hour's pay at the straight time rate, the advance period to be not more than one (1) hour."

Petitioner, citing phrases in Rule 10 (a) of the Agreement which read : "... An employee ... called for emergency road service ... will be paid from the time ordered to leave home station ... in accordance with the practice at the home station ...", alleges that this claim is based upon carrier's practice at claimants' home station. It asserts that in denying a claim in November, 1970, carrier set forth that claimants' starting time for their regular shifts was applicable to work performed by them on their rest days for purposes of computing overtime compensation pursuant to Rule 8 (h) of the Agreement, reaffirming a practice which warrants invoking Rule 8 (g) for work performed by the claimants prior to 7:30 A.M. on January 17, 1971.

Carrier submits that it compensated the claimants more than it was contractually required to by the terms of the controlling agreement, the applicable provisions reading:

"RULE 88 - WRECKING CREWS

(a) Wrecking crews, including wrecking derrick operators, and firemen, when needed, shall be composed of regularly assigned qualified carmen when available, and will be paid as per Rule 10. ..."

" RULE 10 - EMERGENCY ROAD SERVICE

(a) An employee regularly assigned to work at a shop, enginehouse, repair track or inspection point, when called for emergency road service away from such shop, enginehouse, repair track or inspection point, will be paid from the time ordered to leave home station until his return for all time worked in accordance with the practice at home station and will be paid straight time rate for time waiting or traveling during straight time hours at home station and time and one-half rate for time waiting or traveling during overtime hours.

(c) If required to leave home station during overtime hours, they will be allowed one (1) hour preparatory time at straight time rate.

(d) Double time payments as per Rule 8 (h) will be paid only for actual work performed.

(e) Wrecking service employes will be paid under this rule."

Carrier further averred that the claim of November 1970, was founded on Rule 8 (h) which specifically calls for relating to an employes' regular starting time. Except when factors referred to in that rule arise, emergency road service work is to be paid for only as required in Rule 10.

The cited Rules of the controlling agreement are clear and definitive. They indicate the circumstances and conditions when they will be applicable. We find nothing in the record herein to sustain Petitioner's invocation of Rules 8 (f) and (g) for purposes of computing claimants' compensation for work performed on January 17, 1971.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois this 3rd day of January, 1973.