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NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 5488
Docket No. 6278
2-BN-CM-'73

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. 7, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Carmen)
 {
 { Burlington Northern, Inc.

Dispute: Claim of Employees:

1. That Carman R. Schlichting, Lincoln, Nebraska, was improperly compensated on Saturday, December 26, 1970, his second rest day of his regular work week, when only allowed time and one-half his basic rate of compensation.
2. That accordingly, Carman H. Schlichting is entitled to be additionally compensated for two (2) hours and thirty (30) minutes at carmen's straight time rate, which represents the difference in time and one-half payment received for that day and the double-time payment due for the five (5) hours service performed on his second rest day.

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's assigned work week is from 12:00 midnight to 8:00 A.M., Sunday through Thursday, with Friday and Saturday as his rest days. He worked all the hours of his shift Sunday through Thursday and also performed service on Friday for which he was paid time and one half. Claimant also performed service on Saturday for five hours. Because he worked on his first rest day and also on his second rest day, the Organization contends that claimant has met the requirements of Article V of the National Agreement of April 24, 1970 and is entitled to double time pay for hours worked on the second rest day.

The Carrier contends that claimant did not do his own assigned work on the second rest day but filled in for another employee who laid off on his assignment. The Carrier also contends that claimant volunteered for the work by placing his name on the call board and thereby created a new assignment for himself whenever he was called.

Article V of the National Agreement refers to, "service performed --- on the second rest day ---", to qualify for double time pay. The only proviso is that claimant must have worked all the hours regularly assigned to him for work and has also "worked" on the first rest day of his work week.

The National Agreement is clear. An attempt to read more into it would be to amend its provisions which we have no authority to do. Carrier does not contend that the work performed on the second rest day was an emergency.

The Carrier assigns regular work schedules. Employees volunteering for work on rest days do not thereby change the work week assigned by the Carrier. If they did, claimant could change his assignment and have a different work week and rest days every time he volunteered to perform service on his rest days. Doing different work than that normally performed by him or filling in for another employee's assignment does not alter the fact that work has been performed by claimant on the sixth and seventh day of the claimant's work week after completing his regular five day, forty hour assignment.

The application of Article V of the National Agreement has been uniformly and consistently demonstrated in a number of recent Awards of the Second Division to wit: Nos. 6336, 6349, 6282, 6283, etc. The facts of this case are not different from those of the prior cases.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killean

Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May, 1973.