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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6508  
Docket No. 6319  
2-LI-MA-'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. 156, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Machinists)  
(  
( Long Island Railroad Company

Dispute: Claim of Employees:

1. That the Carrier violated the existing controlling agreement of January 15, 1971, when it failed to pay the double time rate for work performed on Sunday, January 24, 1971, from 6:00 P.M. till 12:00 Midnight.
2. That accordingly, the Carrier be ordered to additionally compensate Machinist J. W. Birner (hereinafter referred to as the claimant) in the amount of six (6) hours at the rate of \$2.43875 per hour, the difference between the time and one-half rate and the double time rate, a total of \$14.63 and other employees of like classification subject to all terms of the parties' contract performing work coming within the scope of said contract in accordance with the applicable controlling agreement.

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 were given due notice of hearing thereon.

Basically this dispute involves the interpretation and application of Article VII of the Agreement between the parties entered into on January 15, 1971. A similar dispute between the same Carrier and another Organization (International Brotherhood of Electrical Workers) which is a signatory to the same agreement, was the subject of an Award by a Special Adjustment Board, designated by the National Mediation Board as Public Law Board 790. That Board upheld the position of the Petitioner in the matter before it and sustained the claim.

In Award 6507 rendered this day, this Board determined that it should not reach a conclusion differing from that of Public Law Board 790. The reasons set forth in our Award 6507 are equally applicable to this case.

The Carrier raised two issues which we must consider. In addition to the named claimant, the Petitioner seeks additional compensation for "other employees of like classification subject to all terms of the parties' contract performing work coming within the scope of said contract in accordance with the applicable controlling agreement". The Carrier rightfully avers, and the record so reflects that this was not part of the claim processed on the property. In Awards too numerous to cite, this Board has, on well settled grounds, refused to entertain facets of a claim which had not been dealt with in accordance with contractual procedure. However, we cannot hold that the expansion of the relief and remedy sought by the Petitioner for the breach alleged in the first part of its claim was fatal to the claim duly processed in behalf of the specific complainant. That part of the claim quoted hereinabove will therefore be denied.

In the last paragraph of its rebuttal, the Carrier interposes entirely new matter, not previously raised in the processing of the claim. This is not properly before us and will not be entertained for purposes of determining the dispute before us.

A W A R D

Claim 1 sustained.

Claim 2 sustained to the extent set forth in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May, 1973.