

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: ( System Federation No. 156, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
( The Long Island Rail Road Company

Dispute: Claim of Employees:

1. That the following employees, R. C. Dee, Electrician, was deprived of the double time rate of pay worked on Sunday, January 16, 1972 - sixteen (16) hours - when he was called to work at the Bellaire Sub Station.
2. That the above mentioned employee be compensated at the double time rate of pay instead of the time and a half rate he received for work performed on that 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, an electrician, was called in to work at the Bellaire Sub Station of Carrier on Sunday, January 16, 1972, his rest day. He worked for sixteen hours at work termed by Carrier as emergency work and was compensated at the time-and-one-half rate. Petitioner bases its claim for double time for the work in question on Article VII - Sunday Work of the Agreement dated January 15, 1971, which reads:

"ARTICLE VII - SUNDAY WORK

The number of employees to be regularly assigned to Sunday work shall be limited to the minimum number necessary to maintain service. The parties agree that the number of such employees regularly assigned to Sunday work at the present time shall constitute the maximum number of employees who may be so assigned without penalty. In the event the Carrier

"should assign more than that number to Sunday work, those so assigned who exceed such maximum shall be paid at the rate of double time."

The Organization bases its position largely on the reasoning expressed in the Award of Public Law Board 790 and a series of Second Division Awards (6507, 6508, 6548, 6549, 6550, 6551, 6552, 6553 and 6554). The decisions in those disputes held that Article VII had been violated when Carrier assigned more than the maximum number of employees agreed upon in the January 15, 1971 Agreement to work on Sundays and did not pay them double time.

Carrier in addition to attacking the reasoning expressed in the Award of Public Law Board 790, also contends that less than the agreed upon number of employees were working on January 16, 1972. Carrier points out that in the Award of Public Law Board 790 the record shows that Carrier assigned twenty-five or twenty-six employees in excess of the maximum number agreed to the Agreement (quoted above) and hence this case may be distinguished from that Award.

The record in this case indicates that on the property Carrier, without contradiction or rebuttal from the Organization, stated that on January 16, 1972 the number of covered employees working was not greater than the number of such employees working on January 17, 1971, which was the qualifying Sunday for the rule. Since all the earlier Awards cited above deal with the same issue and the same parties it is important to note that in several of those Awards, in sustaining the Claim we held:

"There does not appear to be any dispute about the claimants herein being in excess of the number of employees who were regularly assigned to Sunday work when the Agreement was reached which resulted in the language of Article VII, as quoted above."

Further in Awards 6507 and 6508 we find that the Carrier did not submit any evidence with respect to whether or not more or less than the agreed-upon number of employees were assigned on the Sundays involved until its Rebuttal. In those cases we correctly held that such information was furnished too late and was not properly before the Board.

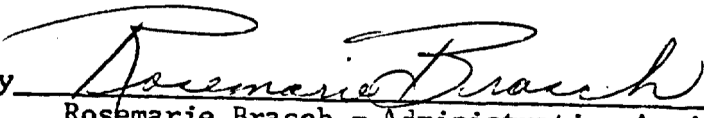
It is well established in this industry that continuity and consistency of principles expressed by the Board are vital for the purpose of effectuating the principles of the Railway Labor Act and in order to provide an ordered rationale for the resolution of disputes. For this reason, particularly in disputes involving identical issues and parties, we are very reluctant to overturn previously enunciated doctrine in the absence of compelling arguments. In the dispute before us, therefore, the principles expressed in the Award of Public Law Board 790 and following Second Division Awards are affirmed; however, since the facts herein are distinguishable from those in the earlier cases, the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of March, 1974.