

The Second Division consisted of the regular members and in addition Referee David P. Twomey 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 the Carrier violated the current Agreement, particularly Rule 8 and Memorandum of Agreement Number Twenty-nine (29) (Rev.), when it failed to properly call Superior Carman L. A. Laurich for overtime May 27, 1973.
2. That accordingly the Carrier be ordered to compensate Carman L. A. Laurich in the amount of eight (8) hours at the time and one-half ($1\frac{1}{2}$) rate for his class for May 27, 1973.

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.

On May 23, 1973, the Carrier called Carman A. Fudally from the preceding shift, the 12:01 A.M. to 8:00 A.M. shift, for overtime service at the Superior Wisconsin train yard on the 8:00 A.M. to 4:00 P.M. shift.

The Organization contends that the Claimant had fewer hours than the man called and should have been called from the overtime call list before Mr. Fudally.

The Carrier contends that the Claimant was not properly eligible for overtime service because he was not on his rest day and thus ineligible under Memo 29 Rev. We disagree. Paragraph B does require that employees for overtime service be obtained "first by calling the employees on the

overtime call list who are on rest days on the shift involved". Paragraph B does not stop here but continues: "Additional employees, if needed, will be called first from the overtime list of the preceding shift". The Organization makes no contention that the Claimant qualified for overtime service as a person on rest day. But rather, the Organization contends that since no employees qualified under the rest day segment of the Rule for the shift involved, that Memo 29(B) Rev. then required that employees for overtime service be called from the preceding shift. The Claimant was in fact eligible for overtime service on May 27, 1973, based on the clear language of the entirety of Memo 29(B) Rev.

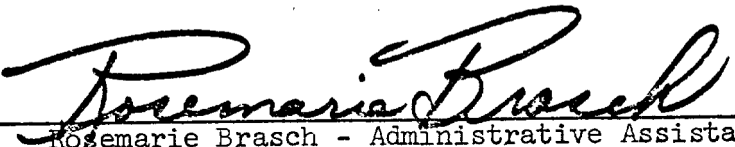
The Carrier contends that it did call the "first man out" but he could not be reached; and that seven Carmen had to be called (the Carrier asserts that the Claimant was the fifth person called and A. Fudally the seventh) before one would respond for the job in question. Memo 29(C) Rev. provides in part: "...When the foreman is designated to call such employees, the committees will be used to verify the fact that an employee called for overtime service cannot be contacted." There is no evidence in the record that the Carrier complied with Memo 29(C). This Division has sustained claims where the Carrier has failed to get verification that a telephone call was made. See Second Division Awards Nos. 4815, 5999, and 6682. No argument was made on the property concerning the rate of pay due Claimant: we thus shall sustain the claim as presented.

A W A R D

Claim sustained.

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 30th day of May, 1975.