

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (Railway Employees' Department
(A. F. of L. - C. I. O.
((Carmen)
(Pacific Fruit Express Company

Dispute: Claim of Employees:

1. That the Carrier violated the controlling Agreement when it deprived Carmen Ruben W. Robles and Frank A. Orozco of wages for one and one half (1 1/2) hours work by improperly altering their time cards after the end of their work shift under date of April 25, 1975.
2. That accordingly, the Carrier be ordered to compensate the Claimants for their wage loss as set forth in the original claim by the Local Chairman, which is attached hereto as Exhibit "A".

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.

The Claimants, Carmen F. A. Orozco and R. W. Robles, are regularly assigned as Carmen in the Carrier's Car Repair Shop at Tucson, Arizona. Mr. Robles is the Chairman of the Local Protective Board and Mr. F. A. Orozco was serving as Vice Chairman. On April 25, 1975, both Claimants were assigned to the 7:00 A.M. to 3:30 P.M. shift, with a lunch period from 12:00 noon to 12:30 P.M. Both Claimants overstayed their normal lunch periods described by Mr. Robles in his letter of June 23, 1975 to the Superintendent of the M and E Department:

"The reason Mr. Orozco and myself were conducting Union business on Friday April 25, 1975, was because Mr. S. A. Boager who at the time was on sick leave could not obtain the correct answers he was seeking pertaining to the Hospital Association from Chief Clerk, Mrs. B. J.

"Hollingsworth. She in fact had not contacted Mr. Boager to ask him what plan he would prefer to enroll in. If Mrs. Hollingsworth had been knowledgeable as to the way the Southern Pacific Employees Hospital Association is to function, then Mr. Boager would not have contacted Mr. Orozco or myself during our lunch period, and we would not have continued our discussion about the Hospital Association as long as we did."

The Claimants punched their time cards in and out in the usual manner and such cards were turned in showing eight hours of service. The Carrier changed the cards to reflect the time both Claimants had spent conducting the above-described meeting and the Claimants were not paid for that period of time. The Organization contends before the Board that the action by the Carrier was in violation of Rule 37(a), the current Agreement which states in pertinent part:

"No employe shall be disciplined or dismissed without a fair hearing by a designated Officer of the Company."

The Organization contends that when the Carrier changed the time cards causing the Claimants to receive pay for less than the hours shown on the cards, that this was a matter of discipline. This Board disagrees.

The Organization under a slightly different facts situation may very well have a point. However, in the instant case the Claimants admitted that they were away from their assigned duties for the period in question. No rule of the Agreement guarantees employees the right to eight hours pay simply because they happen to punch in at the start of a shift and punch out at the end of the shift. The employees are paid an hourly rate as set forth in Rule 47 for hours of service recognized in the Agreement. The time cards are in the possession of the employees during the day. For the Carrier to adjust for time admittedly spent away from assigned positions at the point when the time cards are turned in to the Carrier at the end of the day, cannot be considered as an act of discipline on the part of the Carrier. Within these narrow admitted facts, if the Claimants desired to contend that the time in question was compensable under Rule 36(d), the proper procedure to follow was to file a claim under the Grievance Procedure set forth in Rule 36, presenting proofs and arguments in support of such a theory. This was not done, and we shall deny the claim.

A W A R D

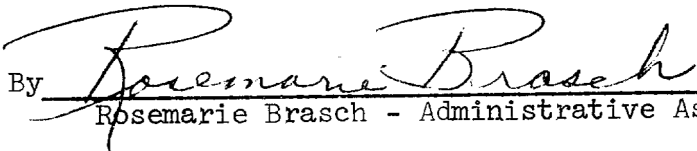
Claim denied.

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Award No. 7316
Docket No. 7166
2-PFE-CM-'77

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 5th day of July, 1977.

