

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 8163
Docket No. 7928
2-D&RGW-CM-'79

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: (System Federation No. 10, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
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(Denver and Rio Grande Western Railroad Company

Dispute: Claim of Employees:

1. That the Denver & Rio Grande Western Railroad Company violated the controlling agreement when Carman H. A. Gant was bypassed for overtime work on July 25, 1976 (his second rest day), at which time he was second out on the overtime board, due to having worked a lesser number of hours.
2. That accordingly, Carman H. A. Gant be compensated in the amount of four (4) hours' pay at the double time rate.

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.

This claim is based on an alleged violation of Rule 8(b) which claim resulted when on July 25, 1976 the carrier called one other than the claimant to perform overtime work.

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The claimant has taken the position that the carrier must follow the order of the overtime list when assigning overtime. We do not agree. A violation of Rule 8(b) can be made out only by a showing that overtime was not assigned "with the purpose in view of distributing the overtime equally". This requires more than was shown in this case.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of November, 1979.