

The Second Division consisted of the regular members and in addition Referee Carlton R. Sickles when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That the Chesapeake and Ohio Railway Company violated Rule 11 of the Shop Crafts agreement when Electrician John W. Gordon was not called for eight (8) hours overtime on August 6, 1978.
2. That accordingly the Chesapeake and Ohio Railway Company be ordered to compensate Electrician John W. Gordon eight (8) hours pay at the double-time rate for August 6, 1978.

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.

Claimant was not called for eight hours' overtime on August 6, 1978. The claimant alleges, and the carrier admits, that the claimant would have been called for this overtime except that a mistake was made and his name was put at the bottom of the list instead of the top. Claimant, therefore, did not receive the double time which he would have received on a Sunday having worked two shifts for a total of sixteen hours on the previous day. Claimant alleges that he lost the opportunity to receive double time whereas other overtime would normally be at time and a half and, therefore, should be compensated at double time for this day that he did not work.

The carrier points out that the system for handling overtime is as provided in Rule 11 quoted by both parties: "(4) There will be as near as possible an equal distribution of overtime between employees who voluntarily sign the overtime call lists". This system is referred to as an "equalization" system rather than a "first in, first out" system which is sometimes utilized in collective bargaining agreements.

There are numerous awards which provide that under an equalization system, it is not necessary that a particular employee be selected for a particular tour of duty but that over a period of time the overtime be equalized "as near as possible". The record indicates that during the period August 6, 1978 through January 23, 1979, the claimant was offered overtime work on 93 occasions and that the opportunity was refused 58 times. There appears to be no testimony that, in fact, there was no opportunity for the claimant to have received a substantially equal amount of overtime.

The fact that this one particular day was a double time day rather than a time and a half day is not so material as to require that the equalization system be applied to a particular day of overtime.

This subject matter was recently considered in Second Division Award 8833 wherein it was held that such a rule does not restrict overtime distribution into a first in, first out basis, and the rule is complied with if the overtime work is as equally distributed as possible over a reasonable period of time. The claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.