

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
and Canada  
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 1 and 7 of the controlling Agreement when they forced Carman T. Bass from his regular assignment January 5, 1979 on the Big Repair Track and changed him to the third (12:00 Midnight to 8:00 A.M.) shift same date.
2. That the Missouri Pacific Railroad Company be ordered to compensate Carman T. Bass in the amount of nine (9) hours and twenty (20) minutes at the pro rata rate account of this violation of January 5, 1979.

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 T. Bass is a Carman assigned at the time of this claim to a vacation relief position at Carrier's Dupo, Illinois facility. When Claimant was not working a vacation relief, he was assigned to the repair track on the day shift, 7:00 a.m. to 3:30 p.m., with a 30 minute unpaid lunch period.

On January 5, 1979, Claimant reported to work at 7:00 a.m. After some discussion with the General Foreman, he was told that he could not work the day shift, since he was to report to work on the third trick as a vacation relief for a third trick employee on vacation. He was sent home after working two hours and 40 minutes. He was paid for the two hours and 40 minutes for time worked on the day shift. He returned and worked the 11:00 p.m. to 7:00 a.m. shift and was paid eight hours pro rata for that work.

The Organization is seeking an additional five hours and 20 minutes pay for Claimant because he was sent home early on his day shift assignment. The punitive rate rather than the straight time rate for the third trick vacation relief assignment should have been paid. A total of nine hours and 20 minutes of additional pay is due.

Carrier denies this claim on the basis that no Schedule rule has been violated and that the Organization is fully aware that at the location where

this dispute arose, there has been a dispute between the Local Chairman and the Local Management over whether a relief man gets paid time and one-half for working two shifts in a 24-hour period. In order to stop the dispute, Carrier issued a directive that relief men would only be allowed to work one shift per day and that on the day that they moved from covering one job to covering another, the practice of allowing them to work two shifts would cease. Each relief employe would henceforth only work one shift per day.

It is apparent from the record of this case that the issue of whether relief men or employes covering a vacation vacancy who work two shifts in 24 hours was contested at Dupo. It is also apparent that the employes suffered because they were denied an opportunity to work an extra shift and to earn extra money. This issue, as well as the time and one-half issue, per se, is not before this Board in this case. What is before this Board, however, is whether Claimant should be paid for an additional nine hours and 20 minutes for January 5, 1979.

As to the additional four hours straight time requested by the Organization (account Claimant worked the third trick on vacation relief), we see no basis in the Vacation Agreement or the Schedule Agreement to support such a claim. In fact, this Board on numerous occasions has denied overtime payments in identical situations where Claimant worked two full eight-hour shifts. We agree with Carrier on that point.

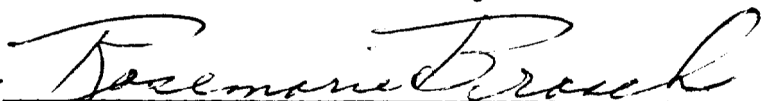
As to how much Claimant should be paid for the day shift on January 5, 1979, this Board cannot subscribe to Carrier's position. The record reveals that Carrier did make a decision (to avoid disputes with the General Chairman) that no employe would work two shifts in 24 hours. The record, however, does not indicate that Claimant was aware of this policy or that he had been informed that he was not to report to work on the day shift on January 5, because he had to cover a vacation relief on the third trick. Claimant reported in the normal way. Only after he arrived at work and after he had worked two hours and 40 minutes was he sent home. It is this Board's belief that Claimant should have been paid for at least a call under Rule 4(e). Claimant reported to work as required; no one informed him otherwise. He should be paid for a four-hour call.

A W A R D

Claim sustained per Findings of the Board. Claimant shall be paid for one hour and 20 minutes at the applicable straight time rate.

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 16th day of June, 1982.