

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

Parties to Dispute: { Sheet Metal Workers' International Association
 {
 { Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That under the provisions of the current agreement Sheet Metal Worker, H. Turner was unjustly dealt with and the terms of the agreement were violated when the Carrier refused to assign the above his rightful turn of overtime on November 10, 1979.
2. That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Worker, H. Turner for eight hours at the time and one half rate for this occurred violation on the referred to date.

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.

Claimant H. Turner is a Sheetmetal Worker employed at Carrier's Brewster Locomotive Shop. He was assigned to the second shift and was also the Local Chairman. On November 10, 1979, Carrier had reason to require a man to work overtime. Carrier utilized Sheetmetal Worker Bailey for the assignment. Claimant contends that he was first out on the overtime list and that he should have been called to take the assignment. The Organization contends that Carrier's action in this instance was a violation of Rule 3 of the Schedule Agreement and that Claimant should be paid eight hours at the punitive rate.

"RULE 3
ABSORBING OVERTIME

When it becomes necessary for employees to work overtime, they shall not be laid off during regular working hours to equalize the time. It will be the purpose to distribute overtime as equally as practicable consistent with the availability of the employees for the service requirements; PROVIDED, however, that time worked on Sunday and paid for as a regular work day shall not be overtime and may be worked on consecutive Sundays."

Carrier contends that Claimant had an unlisted telephone number not available to it and that he could not be contacted. Carrier therefore assigned the work to Bailey. It also contends that Rule 3 does not require calling men for overtime on a first-out basis. It only requires that overtime be distributed on an equitable basis over a period of time, rather than on a daily basis.

This Board has been required on numerous occasions to review identical cases to the one presented here, that is, where the first man on the overtime list was not used on an assignment. We have consistently ruled that an overtime clause such as Rule 3 does not require Carrier to assign overtime on a first-out basis. It only requires that Carrier distribute overtime on an equitable basis. We have also required that Claimants must demonstrate that unequal distribution of overtime was the result of Carrier's action before a claim can be sustained. (See Second Division Awards 8065, 6420, 6613, and 7624.)

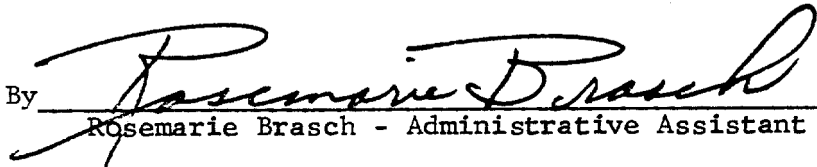
No such showing is contained in the record before us. Consequently, this claim must be denied.

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 22nd day of September, 1982.