

The Second Division consisted of the regular members and in addition Referee Gilbert H. Vernon when award was rendered.

Parties to Dispute: ( Brotherhood Railway Carmen of the United States  
( and Canada  
( Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That the Burlington Northern, Inc. violated Rule 6(b) of our current Agreement on October 29, 1979 when they failed to compensate the following Carmen and Carmen Apprentices for being held over beyond the close of their shift:

R. A. Roering	S. R. Medeck
A. M. Schaefer	J. E. Lanz
H. A. Schmidtbauer	A. D. Kutzorik
A. N. Schreifels	C. W. Karjala
M. J. Theisen	R. L. Kampa
J. A. Ringsmuth	C. L. Jonas
E. J. Repulski	R. R. Hollenkamp
R. M. Pueringer	A. C. Hohman
R. E. Pfannenstern	D. E. Herkenhoff
J. M. Nathan	P. P. Fritz
A. J. Court	E. L. Fladmark
R. D. Bankowski	N. G. Fiedler
L. J. Bauer	A. J. Eich
M. H. Bahe	D. P. Curtis
J. E. Lahr	R. F. Bautch
D. J. Sand	R. F. Anderson
J. F. Schindler	J. R. Schriefels
K. A. Schmidt	K. W. Stich
C. P. Stroeing	M. J. Solorz
F. A. Voigt	W. P. Terwey
J. R. Saldana	W. H. Sadlowsky
D. T. Rassier	P. L. Prom
M. P. Phillipe	D. J. Kimmes
H. A. Pfannestern	D. T. Eiyneck
K. L. O'Donnell	R. E. Becker
R. B. Lyon	V. A. Keller
P. D. Honer	R. H. Kirchner
C. M. Hommerding	R. H. Memken
E. J. Heinen	J. H. Bloch
E. A. Fritzlar	M. S. Kirchner

2. That accordingly the Burlington Northern, Inc. be ordered to compensate Roering, et. al. in the amount of one (1) hour's pay for their rate and class at the straight time rate for October 29, 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 employe or employes involved in this dispute are respectively carrier and employes 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 facts of this case are basically not in dispute. On the day in question, the 8:00 a.m.-4:00 p.m. shift employes left their assignments at the 3:56 p.m. whistle as usual for clean up etc. Shortly thereafter, a number of employes congregated at the west end doors. The Foreman then noticed employes starting to leave whereby he stopped them because he had not heard the 4:00 p.m. whistle and his watch indicated it was not yet 4:00 p.m. He detained those employes who had not left. He then consulted another foreman whose watch indicated it was after 4:00 p.m. The Organization asserted on the local level that the employes were detained 1-4 minutes. They argued the requested one-hour payment is justified by Rule 6(b) which states:

"(b) Continuous Service After Regular Hours-For continuous service after regular working hours, employees will be paid time and one-half on the actual minutes basis with a minimum of one (1) hour's pay for any such service performed."

Moreover, the time involved is "service" and in this regard they cited Second Division Award 6502.

It is the conclusion of the Board that under the unique facts and circumstances of this case, the time spent (which cannot be determined precisely from the record) by the Claimants was not "service" within the meaning of Rule 6(b). The time spent was the result of an error made in good faith and was not as a result of the Carrier seeking or even inadvertently receiving benefit from the employes.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd Day of November 1983.