

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
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Carmen Mike Mead, Richard Wart, Dale Beck, Robert Collum and Henry Kuelper, Beverly, Iowa, were denied compensation for the period of 12:00 Noon to 12:30 P.M. while they were away from home station on emergency road work; the amount of one-half hours pay per day at the straight-time rate for the following days:

Carman Mead: 6/24/79
7/ 5/79

Carman Wart: 6/24/79

Carman Beck: 7/ 5/79
8/28/79

Carman Collum: 7/10/79
7/12/79
7/24/79
8/ 2/79

Carman Kuelper: 8/10/79
8/13/79
8/20/79
8/23/79
8/24/79
8/27/79
8/28/79

2. That the Chicago and North Western Transportation Company be ordered to compensate Carmen Mike Mead, Richard Wart, Dale Beck, Robert Collum and Henry Kuelper for one-half hours pay at the straight-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 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.

Petitioner in this case contends that on various days in June, July, and August 1979, five Carmen Claimants (Mead, Wart, Beck, Collum, and Kuelper) performed emergency road work while away from their home station. It contends that Rule 10 of the Controlling Agreement directs that employes on emergency road work will be paid for all time worked, traveling, or waiting at the straight time rate. In the instant case, Claimants were not paid for their 30-minute lunch hour on the days they worked away from their home station. Through this claim, they seek 30 minutes pay at straight time for those lunch hours listed in the claim.

Carrier simply states that the work performed by Claimants on the claim dates was not emergency road work as contemplated by Rule 10 and that, as a consequence, it denied the claim. Carrier relies on Second Division Award 8186, Referee R. E. Fitzgerald, as the basis for its denial.

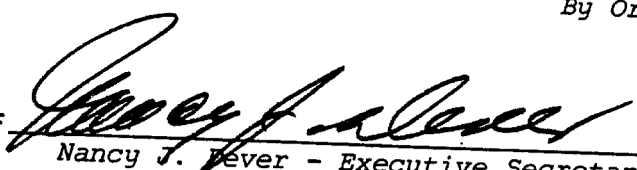
This Board has reviewed any number of Rule 10 cases and, based on the record presented, it has come down on both sides of the issue. It has denied some claims and sustained others. Throughout those Awards, however, it has maintained the position that the party arguing that the work performed was emergency work must demonstrate this fact by probative evidence. The record before us in this case falls short of that requirement. Petitioner claims that the work performed was emergency work. It does not, however, explain the details of the work or what the situation was at the time the work was performed. Without more facts than exist in the record before us, we cannot conclude that the work performed by Claimant was emergency work as contemplated by Rule 10.

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 30th day of January 1985.