

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11666
Docket No. 11539
89-2-88-2-9

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Brotherhood Railway Carmen/Division of TCU
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That the Burlington Northern Railway Company violated the terms of our current Agreement, in particular Rules 4 and 8 and Appendix D, when they arbitrarily used yard inspectors to perform work at the car shop on November 27, 1986 (holiday).

2. That accordingly, the Burlington Northern Railway Company be ordered to compensate Mandan, North Dakota Carmen R. F. Klecker, G. J. Westling, J. J. Sanders, G. F. Bunce and G. D. Palen in the amount of eight (8) hours pay for their rate and class for November 27, 1986 at the time and one-half (1.5) 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 employee or employees involved in this dispute are respectively carrier and employees 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.

At Mandan, North Dakota Carrier has divided its Carmen's forces into two groups. One group performs yard inspector work and the other car shop repairs. Separate overtime lists are maintained for each group. On November 20, 1986 Carrier's General Foreman - Cars issued an all concerned notice on Holiday Work, reading:

"Account Thursday and Friday November 27 and 28, 1986, Thanksgiving Holiday, the car shop will not work. If men are needed they will be called off the overtime list.

All employees in the Train Yard, Roundhouse and carmen and electricians at the caboose track will protect their respective assignments."

On November 27th three Carmen were worked in the inspection yard. Only about five hours inspection work was required that day. They were used for three hours in the car shop repairing bad order equipment.

The Organization contends that assignment of train yard inspectors to car shop bad order repairs under these circumstances violated the Holiday work and pay provisions of its Agreement. The Carrier contends that while train inspectors and car shop employees are on separate overtime lists they, nonetheless, are carried on the same seniority roster and report on and off duty at the same location, the car shop. It also argues that when car inspectors have not been busy with inspecting work they have, in the past, been used in repair work.

Rule 8 (d) of the Agreement provides:

"(d) When the same number of employees are worked on holidays as are assigned to work that same day of each week, the regularly assigned employees will work (Observed by State, Nation or proclamation) falling on that day of the week. In all cases of reduced holiday forces, employees will be called on the basis of being first out on the established call list of the shift involved."

From the facts available in this case it is obvious that Carrier treats its Carmen forces at Mandan as two separate and distinct units. A compelling reason supporting this conclusion is the maintenance of separate overtime lists. Another reason, almost as compelling, is the conduct the General Foreman manifest in the Holiday work notice he posted. He instructed train yard employees to work their regular assignments. This was in accord with the first sentence of Rule 8 (d). He also told car shop employees that they would not work but if they were needed they would be called off the overtime list. This was in accord with the second sentence of Rule 8 (d).

With such a separation of groups clearly in place we feel that on a holiday it is a violation of the Agreement to permit car inspectors, a group assigned to work under the first sentence of Rule 8 (d), to perform repair work of car shop employees, a group that would be entitled to work under the second sentence of Rule 8 (d).

The evidence indicates that three inspectors worked three hours making repairs on bad order cars in the shop. We will sustain the claim on behalf of the three senior of the five Claimants for three hours pay each, at the Holiday rate of pay of time and one half.

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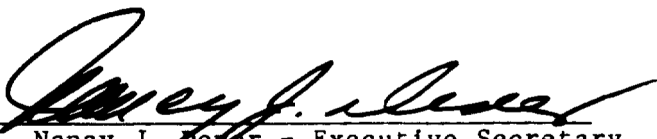
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A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 1st day of March 1989.