

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(
(Southern Railway Company

STATEMENT OF CLAIM:

1. That under the current Agreement the Carrier violated Rule 10 when they failed to call Carman D. Brooks for overtime on January 30, 1988.

2. That accordingly, the Carrier be ordered to pay Carman Brooks eight (8) hours' pay at the overtime 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.

Rule 10 of the Agreement provides, in pertinent part:

"Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime as equally as possible consistent with forty (40) hour week rules."

At Macon, Georgia, some controversy developed in calling Carmen for overtime work. In some instances Supervisors lined up Carmen for overtime work the day before it was required. To insure fairness to all Carmen, Carrier's General Foreman, on August 2, 1986, issued the following directive:

"In order to clarify this, the following procedure will be observed. The carmen's overtime board will be called when needed within (5) five hours prior to the start of the overtime."

On January 29, 1988, at 1:00 P.M., eighteen hours before the overtime assignment was scheduled to commence work, Carrier called another Carman, assigned in the train yard, who had fewer overtime hours than Claimant, to work in place of a Carman who had reported off sick, assigned in the forward-ing yard. Claimant filed an immediate protest, contending:

"I am claiming 8 hours at the time and half rate of pay because the overtime board was called 18 hours prior to the time the job was to be filled on 1-30-88. I was the next man out on the over-time board. This is not our regular procedure of calling the overtime board."

This Claim remained unsettled through extensive handling and is now properly before this Board for adjudication.

While it is manifestly clear that the overtime call in this dispute was initiated well before the published time period in the General Foreman's instructions there is no showing that if the assignment had been made within five hours of the start of the overtime a different employee would have been entitled to the work. Claimant contends that he would have been the next man out on the overtime board. However, the Rule does not contemplate assignment of overtime on a rotating basis. Rather, the language of the Rule clearly contemplates that efforts be made to distribute overtime equally among Carmen on the overtime board. It is unrefuted in this record that the Carman offered the overtime, albeit earlier than contemplated by the practice in place, had less hours than Claimant. It would seem from this fact that he would have been entitled to be called before Claimant.

Before concluding we must mention that it is apparent that over the years the parties at Macon, Georgia, developed a practice where overtime would be called not more than five hours before it was to be worked. Calling in advance of this time seems to be the real issue involved in this Claim. To avoid such disputes in the future the parties are urged to adhere to the practice they mutually developed.

A W A R D

Claim denied.

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Award No. 11955
Docket No. 11761
90-2-89-2-66

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: _____


Nancy J. Daves - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.