

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

1. That the Carrier violated the terms of the controlling agreement between the Southern Pacific Company and the Organization, Rule 15, when the Carrier failed to compensate Carman J. H. Pope the appropriate compensation on September 27, 1989.

2. Accordingly, the Carrier be ordered to comply with the provisions of the Agreement, making the Claimant whole for his losses, which is two (2) hours and forty (40) minutes at the time and one-half 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.

The Organization filed a claim alleging that the Carrier violated Rule 15 of the Agreement when the Claimant was not compensated on September 27, 1989, at overtime rate for loading and securing cars previously damaged in derailments. The Rule reads as follows:

"Rule 15. Relief outfit service outside of yard limit boards at home point, will be paid for at the rate of time and one-half for all time whether working, waiting or traveling, from time called until return to home point and released by foreman; except, if relieved from duty and permitted to go to bed for

a period of five (5) or more hours, time for such hours will not be allowed, provided, however, that in no case will an employee be allowed less than the equivalent of eight (8) hours at straight time rate, for each calendar day when such relief outfit service prevents the employee from working his regular hours at home station. When meals and lodging are not provided by the Company, actual necessary expenses will be allowed."

On August 9, 1989, the Carrier experienced a one car derailment at Delta, California. On August 18, 1989, another one car derailment occurred at Lamoine, California.

The Klamath Falls, Oregon, relief crew and the Claimant were used at the derailments to rerail the cars and were relieved from relief outfit duties. The rerailed cars were subsequently moved to Dunsmuir, California.

On September 27, 1989, the Claimant was called from his home point of Redding, California, to assist in loading and securing the damaged cars for movement to a repair facility. He was compensated eight hours at the straight time rate for work performed from 7:00 A.M. to 3:00 P.M. and two hours and forty-five minutes at the time and one-half rate for the period 3:00 P.M. to 5:45 P.M. Relief requested by the Organization is overtime rate for the eight hours in lieu of straight time which was paid for work done from 7:00 A.M. to 3:00 P.M. The Organization alleges that the work performed by the Claimant was an extension of the relief outfit service work and, therefore, the Claimant was entitled to payment at the time and one half rate during regular hours of this assignment.

The Carrier, however, alleges that the work was regular Carman duties and not relief outfit service inasmuch as the work which had been necessary, pursuant to the derailments, had been completed some fifty days earlier.

After reviewing the record the Board is persuaded that Rule 15 was not violated. The work in question, although it originated from the derailments of August 9 and 18, 1989, was no longer relief outfit service covered by Rule 15 because the tracks had been cleared and the cars involved had been rerailed and moved to another location which was Dunsmuir, California. Furthermore, the relief outfit crew dispatched to the earlier derailment sites had completed their duties and were relieved from further service.

On September 27, 1989, Claimant was called to perform Carman work of loading and securing the cars for further movement to a car repair facility. Therefore, Claimant was properly compensated for the work performed on that date.

Parallel issues, involving this Organization and Carrier, have been previously adjudicated and denied by this Board (Second Division Awards 12029, 12030; also see Second Division Award 10887.)

On the record as a whole the Board can not sustain the Claim.

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 16th day of October 1991.