

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12639
Docket No. 12367
93-2-91-2-153

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(CSX Transportation, Inc. (former Chesapeake & Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter referred to as 'carrier') violated the service rights of Carman J. Jenkins (hereinafter referred to as 'claimant') and the provisions of Rule 7 of the controlling Agreement when the carrier instructed the claimant to report one (1) hour and ten (10) minutes prior to the claimant's 7:00 a.m. shift and failed to properly compensate the claimant in violation of the aforementioned Agreement Rule.
2. Accordingly, the claimant is entitled to be compensated for one and one-half hours at the applicable rate of time and one-half for said violation."

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 employe 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.

This case arises from a claim on behalf of Carman J. S. Jenkins that he was instructed to report for work at 5:50 A.M., on

September 12, 1989, one hour and ten minutes prior to his 7:00 A.M. starting time. Claimant seeks compensation for one and one-half hours at the overtime rate.

The record evidence discloses that on the date in question, Claimant among other employees, had been instructed pursuant to Bulletin 89-08 to report for duty at 6:00 A.M., one hour before the usual 7:00 A.M. starting time. During the same time period, Carrier requested that these employees arrive several minutes prior to starting time to attend a safety training program. Claimant was paid eight hours at the pro rata rate, one hour at the overtime rate, and an additional ten minutes at the pro rata rate for safety training.

The Organization asserts that Carrier violated the provisions of Rule 7 of the Agreement which provides as follows:

"Rule 7--

- (a) For continuous service after regular working hours, employees will be paid time and one-half on the actual minute basis. For forty minutes or less continuous service after bulletin hours, one hour straight time will be allowed.
- (c) Employees called or required to report for work and reporting, will be allowed a minimum of four (4) hours for two (2) hours and forty (40) minutes or less, and will be required to do only such work as called for or other emergency work which may have developed after they are called, and cannot be performed by the regular force in time to avoid delays to train movement.
- (d) Employees will be allowed time and one-half on minute basis for services performed continuously in advance of the regular working period with a minimum of one hour-the advantage period to be not more than one hour."

Carrier defends against additional payments on the basis that:
(1) Claimant was already paid overtime for the hour he worked prior to the start of his regular shift; (2) the additional ten minutes was not work but training, which falls outside the rubric of Rule 7.

We concur with Carrier's position. There are numerous Awards on all Divisions which have held that training outside an employee's regularly assigned hours does not trigger an overtime payment. See Second Division Awards 12359, 12235, 12234; Third Division Awards 28575, 27021 and 22704. Having failed to meet its evidentiary burden, the Organization's claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - ~~Interim~~ Secretary to the Board

Dated at Chicago, Illinois, this 12th day of January 1994.