

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13239

Docket No. 13133

98-2-96-2-35

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (**Brotherhood Railway Carmen, Division of**
(**Transportation Communications International Union**
(**Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

"Claim of the Committee of the Union that:

1. That the Springfield Terminal Railway Company (hereinafter 'Carrier') violated the labor agreement when they allowed or assigned an employee to work overtime when they should have notified the local committee to secure an available employee to perform such overtime work.
2. That, accordingly, the Springfield Terminal Railway Company be ordered to compensate Carman Henry J. Satrowsky, (hereinafter 'Claimant') three (3) hours at the overtime rate of (19.80) for a total of (59.40) in accordance with the controlling agreement, specifically Rule 8 and the October 23, 1992 letter of understanding."

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 employee 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 were given due notice of hearing thereon.

On November 11, 1994, Carman Fred Thompson had driven his tractor-trailer tandem from Billerica, Massachusetts, to the Carrier's East Deerfield, Massachusetts, engine house. Thompson's shift was from 7 A.M. until 3 P.M. He arrived at East Deerfield at 2 P.M. and was assigned to unload his truck which took him until 6 P.M.

The Organization asserts that by requiring Thompson to work overtime, the Carrier violated Rule 8 because the Carrier failed to notify the local committee to provide an employee from the overtime list to work the job. Rule 8 in pertinent part reads:

"Rule 8

(a) * * * *

(b) * * * *

(c) Supervisors in charge will advise the Local Committee concerning the number of employees needed to work overtime on a specified job, and the Committee will designate the qualified employees to be assigned. Employees so assigned may be continued on the job in question until it is completed or until relieved. Relief employees, if on overtime, will be chosen from those who are not in the double time period."

The record developed on the property shows that the Carrier denied the claim on the basis that "the practice at East Deerfield was to allow for the completion of work already in progress unless such would result in more than 4 hours of overtime." Therefore, the Carrier argues that, the overtime worked by Thompson was less than four hours, its actions were in compliance with the practice at East Deerfield.

The Organization, in its reply to the Carrier's denial of the claim, asserted that it had not been the practice at Deerfield to use four hours as a threshold for work already in progress. The Organization also requested the Carrier, in the last letter on

the property dated December 20, 1995, to provide evidence with respect to the alleged four hour practice on which the Carrier relied in denying the claim.

The Board finds that the Organization has carried its burden of proof, Rule 8(c) is clear. Moreover, the Parties' Letter of Understanding, dated October 23, 1992, entitled Distribution of Overtime, further details the responsibility of the Carrier and the local committee with respect to the distribution of overtime.

In summary, the Carrier, on the property, has provided no evidence that would support its contention and to serve in any way to supplement the clear language of Rule 8(c) and the Letter of Understanding, dated October 23, 1992.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of March 1998.