

NATIONAL RAILROAD ADJUSTMENT BOARD

Second Division

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)
TEXAS AND PACIFIC RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYEES.—Proper application of Rule 19.

Are employees entitled to compensation for time lost as a result of not being given the minimum of thirty-five (35) hours work per week as provided for in Rule 19, paragraph (c), of the current agreement?

EMPLOYEES' STATEMENT OF FACTS.—Mechanical employees were not working the minimum of thirty-five (35) hours per week as provided in Rule 19, paragraph (c), at the time representation was established by System Federation No. 121 on November 28, 1934. Representatives of the employees made efforts to get the minimum working time of seven (7) hours per day and five (5) days per week established in January, 1935.

"**RULE 19.** (a) Fluctuating traffic being the governing factor in the increases or reduction in expenses, this rule is designed to meet this condition with as little disturbance as possible to regularity of employment, as to the method of meeting these fluctuations is primarily in the interest of the employees, it is incumbent upon both the management and the local representatives to so regulate the bulletined hours of assignment as to reduce to the minimum the increase and decrease of the number of men employed.

"(b) When it becomes necessary to reduce expenses the hours may be reduced to thirty-five (35) per week, seven (7) hours per day, before reducing forces. When force is reduced the youngest men in the service of the company will be the first to be laid off.

"(c) *In no case shall the bulletined hours per week be less than seven (7) or the days per week less than five (5).*

"(d) The maximum number of bulletined hours per week on six day assignments shall not exceed sixty. The practice at points where the custom is in effect to stop work on Saturdays at 4:00 P. M. for the convenience of the forces on the day shift (with the exception of regularly assigned enginehouse and miscellaneous employees that are necessary for the continuous operation of the service) will continue in effect.

"(e) Twenty-four (24) hours' notice will be given before hours are reduced. If the forces are to be reduced forty-eight (48) hours' notice will be given the men affected before reduction is made.

"(f) Hours may be restored before restoration of forces. In restoring forces, senior men laid off will be given preference.

"(g) In the reduction and restoration of forces the ratio of apprentices will be maintained.

"(h) When necessary to make temporary increases or reductions of expenses at any point or in any department or subdivision thereof, either force, hours, or both, may be increased or reduced. In the adjustment of forces, employees will take the rate of the job to which assigned, seniority as per Rule 22, to govern."

POSITION OF EMPLOYEES.—In January, 1935, representatives of the employees requested the officials of the carrier to apply the rule as written, asking that each employee be given not less than the minimum of thirty-five (35) hours' work guaranteed under the rule each week. The records from the correspondence between the carrier's officials and representatives of the employees show that compensation was claimed for all employees not receiving the mini-

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Rule 21 reads:

"Employes required to work when shops are closed down will receive straight time for regular straight time hours, and overtime for overtime hours."

POSITION OF CARRIER.—Will first state, the question submitted to the Board shows no date; therefore, we do not know what period is involved in the claim as set up by the committee.

Second, in view of the statement made in your Board's Docket No. 47, under "Joint Statement of Facts Agreed to Between the Management and Committee", reading:

"There is no complaint as to the application of the rule (Rule 19) as applied in back shops and car shops."

we do not understand now, after agreeing that there was no complaint, why the committee is submitting the question as set up in this case to your Board.

Third, Rule 19 (a), (b), (c), and (d), as quoted above, is applicable only when the back shops and car shops are working. Rule 21 is applicable when shops closed down, and employes required to work during the time the shops are closed down would be compensated under that rule.

While Rule 19 would not require the carrier to give any employe worked in the back shops a minimum of thirty-five hours per week, during period shops closed down, we did, as explained in Docket No. 47, after matter was taken up by the committee, meet the wishes of the committee in effect that any employe worked in the back shops, even during close-down period, would be given not less than thirty-five (35) hours per week, and we have strictly adhered to this since July, 1935.

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.

The parties to said dispute were given due notice of hearing thereon.

Evidence shows that shop employes had been working short hours for several years in order to spread employment. In January 1935, representatives of the employes requested that the provisions of Rule 19 of the current agreement be properly applied.

A difference of opinion as to the proper application of Rule 19 was reconciled by agreement.

Rule 19 of the current agreement provides a method of reducing expenses and forces. When forces are reduced, seniority as per Rule 22 shall govern.

The provisions outlined in the current agreement to reduce expenses were not complied with.

AWARD

The claim of the employes is sustained, but compensation for time lost prior to July 15, 1935, is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 13th day of August, 1936.