

Award No. 239

Docket No. 240

2-KCT-SM-'38

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 38, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (SHEET METAL WORKERS)**

KANSAS CITY TERMINAL RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Sheet Metal Worker George Meeker be paid time and one-half for doubling over first to second shift on November 28, 1937.

EMPLOYEES' STATEMENT OF FACTS: George Meeker, sheet metal worker, worked his assigned hours on November 28, 1937, which were from 8 A. M. to 4:30 P. M., and also on the same date worked the next shift which began at 8 P. M. and ended at 4:30 A. M., thereby working a total of sixteen (16) hours embracing the first two shifts in one twenty-four (24) hour period.

POSITION OF EMPLOYEES: Mr. George Meeker, sheet metal worker, who is carried on the seniority roster of the Kansas City Terminal Railway as such, was not regularly employed, but on October 23, 1937, he was called back to work and worked continuously until November 29, 1937, at which time he was laid off. During the period Mr. Meeker worked, his assigned hours were from 8 A. M. to 4:30 P. M., and on November 18, 1937, he was required to double over on the next shift, which was from 8 P. M. to 4:30 A. M. A claim for time and one-half was entered for doubling over on this particular shift and the claim was allowed, and we are herewith submitting an affidavit to this effect, listed as Exhibit A.

Again on November 28, 1937, after Mr. Meeker had completed his regular shift (8 A. M. to 4:30 P. M.) and had gone home, he was called to report for the 8 P. M. to 4:30 A. M. shift, due to the regular man on that particular shift laying off. Mr. Meeker worked both of these shifts, thereby making a total of sixteen (16) hours worked in one day. A claim for time and one-half was entered for this doubling over and the claim denied by the company, which is in strict violation of Rule 8 of the current agreement which reads as follows:

"Employees called or required to work not continuous with regular assigned work period will be paid on the minute basis at rate and one-half with a minimum of two hours and forty minutes."

The above rule is clear as written as it plainly states that employees called or required to work, which is not continuous with their regular assigned work, will be paid time and one-half or a minimum of two hours and forty minutes.

Rule 8

"Employees called or required to work not continuous with regular assigned work period will be paid on the minute basis at rate and one-half with a minimum of two hours and forty minutes."

Rule 26

"Employees required to change from one shift to another will be paid overtime rates for the first shift of each change, except when sixteen (16) hours has elapsed from the closing time of their regular shift, or when transferred at their own request, or are notified at the end of the week of change to be effective the first day of the following week."

The management contends that neither rule governs the case in dispute. Rule 8 is a call rule and is applicable only to regularly assigned employees who may be called during the interim between the ending and starting time of their regular assignments. Extra men have no "regular assigned work period," as mentioned in this rule.

Rule 26 is applicable only to employees who are regularly assigned and who have a fixed time to begin work on a regular shift. An extra employee has no "regular shift," therefore, the sixteen hour interim is applicable to an employee on a regularly assigned shift who may be required to change from that regular shift to another shift and not to an extra man.

Mr. Meeker was not required to double over from one shift to another, as claimed by the organization. It is our contention that Meeker, having completed the relief assignment from 8 A. M. to 4:30 P. M., and released until further extra work was available, cannot be considered as having doubled over when used on a subsequent relief assignment not continuous with the first assignment he worked.

Rule 7, which reads as follows:

"All overtime continuous with the regular assignment will be paid for at rate and one-half until relieved"

provides for the payment of rate and one-half when work is performed continuously with the regular assignment, but in this case the two shifts worked by Meeker had no connection with each other. Meeker was used to fill in on the latter shift for the reason that he was the senior man and entitled to the extra work, and no rules in the agreement provide for overtime to extra employees under any situation, except that provided for in Rule 7.

The management, therefore, requests the Board to deny the claim of the employees in this case, as Rules 8 and 26 are applicable only to regular employees and were never intended to apply to relief men.

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.

The parties to said dispute waived right of appearance at hearing thereon.

Rule 8 of the current agreement reads:

"Employes called or required to work not continuous with regular assigned work period will be paid on the minute basis at rate and one-half with a minimum of two hours and forty minutes."

The above quoted rule supports the employes' contention.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this Second day of June, 1938.