

Award No. 451

Docket No. 458

2-NYC-CM-'40

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 103, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. OF L. (CARMEN)

NEW YORK CENTRAL RAILROAD COMPANY

**DISPUTE: CLAIM OF EMPLOYES:** That Lawrence Severino and Thomas Abernethy should receive four days' pay for each time they were laid off between May 25 and October 31, 1938, on account of not getting four days' notice as required by Rule 27 of the shop crafts' agreement.

**JOINT STATEMENT OF FACTS:** At Ashtabula, Ohio, there is a seniority point known as the Old Shop, which takes in the employes on the freight repair track, the East and West yards, and Carson.

Thomas Abernethy and Lawrence Severino, furloughed carmen, carried on this seniority roster, were called to work at Carson and worked the number of hours on the dates shown and also were used for other work as shown on the following statement:

Date	Thos. Abernethy Hours Worked	Abernethy Station	Lawrence Severino Hours Worked	Severino Station	Date	Thos. Abernethy Hours Worked	Abernethy Station	Lawrence Severino Hours Worked	Severino Station
1938					1938				
May					June				
25	9½	Carson	—		14	10	Carson	10	Carson
26	9	"	—		15	—		—	
27	—		—		16	—		—	
28	11½	"	—		17	10½	"	10½	"
29	—		—		18	—		—	
30	—		—		19	—		—	
31	10	"	—		20	—		—	
June					21	—		—	
1	—		—		22	8½	"	8½	"
2	—		—		23	—		—	
3	—		—		24	—		—	
4	9½	"	9½	Carson	25	8	"	—	
5	—		—		26	—		—	
6	—		—		27	12	"	12	"
7	10	"	10	"	28	10	"	10	"
8	—		—		29	—		—	
9	—		—		30	—		—	
10	—		—		July				
11	12	"	—		1	13	"	13	"
12	—		—		2	—		—	
13	—		—		3	—		—	

who were absent or as extra men not taking the place of regular men. Accepting such employment during months involved, Abernethy and Severino accumulated the following time:

	Abernethy		Severino	
	Straight Time	Overtime	Straight Time	Overtime
June 1938	70-1/3 Hours	20-1/6 Hours	80 Hours	14-1/2 Hours
July 1938	96	29	152	27-1/2
Aug. 1938	112	15	144	16-1/2
Sept. 1938	136	32	160	19-
Oct. 1938	152	39-1/2	168	44-1/2

At the conferences in Mr. Walber's office, as hereinbefore described, it was brought out that on August 29, 1939, the carrier reestablished at Carson one trick, consisting of two men working six days per week. On September 1, 1939, the carrier established three regular shifts, two men per shift, six days per week. On October 8, 1939, it became necessary to establish these three shifts on a seven-day per week basis. These jobs continued on the seven-day basis until November 27, 1939, when navigation slowed up to the extent that we reduced this to one shift per day, two men per shift.

This clearly shows that regular shifts are established when the flow of business makes such arrangements feasible. To say that regular shifts should be maintained whether the flow of business is sufficient or not, is not conducive to efficient operation, or required by any provision of the agreement.

**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.

The evidence of record shows that Thomas Abernethy and Lawrence Severino were called to work at Carson, Ashtabula and Coalburg at various intervals from May 25, 1938, to the close of October, same year, and in each instance were worked one, two or more days.

The carrier should compensate Messrs. Abernethy and Severino on the same basis as they would have if it had been understood that recalling furloughed employes in this manner constitutes a restoration of force as contemplated by Rule 27.

#### AWARD

Carmen Abernethy and Severino were entitled to four days' notice in accordance with provisions of Rule 27. Where the carrier failed to give notice required by the rule, the employes shall be paid accordingly.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 30th day of April, 1940.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**INTERPRETATION NO. 1 TO AWARD NO. 451  
DOCKET NO. 458**

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**NAME OF ORGANIZATION:** Railway Employees' Department, A. F. of L.  
(Carmen)

**NAME OF CARRIER:** New York Central Railroad Company

Upon application jointly submitted by the carrier and the representatives of the employes involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Sec. 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

Award 451 means that the employes are entitled to pay on the basis of what they would have been allowed if the four days' notice rule had been observed.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division**

**ATTEST: J. L. Mindling**  
Secretary

Dated at Chicago, Illinois, this 12th day of December, 1940.

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