

Award No. 653

Docket No. 575

2-IC-FT-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Rule 2 and the interpretation thereto, paragraphs (c) and (d), has and is being violated at Champaign, Illinois, and that the employees involved be paid accordingly as provided in the current schedule.

EMPLOYEES' STATEMENT OF FACTS: At the Champaign roundhouse there are:

Three shifts assigned, beginning at 7:00 A. M., 3:00 P. M. and 11:00 P. M., each working eight (8) consecutive hours with an allowance of twenty minutes for lunch with pay;

One shift assigned from 7:00 A. M. to 4:00 P. M. with an allowance of one hour for lunch without pay; and

One shift assigned from 8:00 P. M. to 5:00 A. M. with an allowance of one hour for lunch without pay.

At the Champaign passenger station prior to November 7, 1939 (approximate date) there were:

Three shifts of carmen assigned, beginning work at 5:30 A. M., 3:00 P. M. and 8:30 P. M., with an allowance of thirty minutes for lunch on the shift beginning at 5:30 A. M., and an allowance of one hour for lunch on the shifts beginning at 3:00 P. M. and 8:30 P. M., all such lunch periods without pay; and

Two shifts of machinist helpers, one shift working from 11:30 A. M. to 9:30 P. M. with two (2) hours off for lunch without pay between 3:45 P. M. and 5:45 P. M.; the other shift working from 9:30 P. M. to 6:30 A. M., with one (1) hour off for lunch without pay between 2:30 A. M. and 3:30 A. M.

At the Champaign passenger station, subsequent to the request filed by the employees representatives on date of October 22, 1939, on November 7, 1939 (approximate date) carmen and machinist helpers were placed on a three-shift basis of eight consecutive hours, with an allowance of twenty minutes for lunch with pay, beginning work at 7:00 A. M., 3:00 P. M. and 11:00 P. M., whereby all employees begin and quit work at the same time. However, the employees at the passenger station were not paid the overtime worked in the overtime hours of each respective shift between October 22, 1939 and November 7, 1939 (the latter an approximate date).

Position of employees in Second Division Award 196 reads in part: "We contend that any work performed . . . on Wrecker X-109 on Sunday . . . could not . . . be considered as running repairs and inspection, or essential to continuous operation of the railroad." The synonymy between "running repairs and inspection" and "essential to continuous operation" is again indicated.

Position of employees in Award 32 issued by this Board reads in part:

"Since it is often necessary to make minor repairs to couplings, such as applying new gaskets or angle cock levers in order to make the air line operative, and it can only be determined whether these repairs are needed or not by inspecting the cars, it naturally follows that this is work which should be done by car inspectors or train car repairers who follow car inspectors in yards for the specific purpose of making such minor repairs if the need for them is indicated by the car inspectors. In small yards where the amount of work permits, car inspectors make such minor repairs." (Emphasis ours.)

This is admission that the "running repair and inspection force" make such minor repairs that they can, and this is identical with the condition here. This is further substantiated in the position of employees in Awards 167, 279 and 319.

This grievance was presented and handled by the secretary of System Federation No. 99 with the local officers and above, but not by any duly authorized local committee. Carrier has no knowledge of any employees or local committee at Champaign having reported violation of any provisions of the agreement, as is evidenced by carrier's Exhibit B. This is a clear case where the general committee has instituted and progressed a claim to secure a "hoped-for" interpretation to stretch the meaning of an interpretation beyond that intended when it was negotiated and beyond reasonable meaning of the language used.

With respect to that portion of the claim for overtime for forces at passenger station from date presented to date changed. Rule 2 says that starting time ". . . shall be arranged by agreement between local officers and employees committee based on actual service requirements." As there were no local committees, agreements to cover starting times based on service requirements were made with the individuals, and when this grievance was received the situation was reviewed and some changes made. Paragraph (f) of the interpretation permits certain exceptions subject to approval or change by management and general committee, which naturally presupposes some preceding action. The penalty claim is not in equity because the grievance was immediately investigated and the purport of agreement promptly complied with.

Carrier requests that the claim be denied.

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 were given due notice of hearing thereon.

This dispute involved the application of Rule 2 of the current agreement and its interpretation, paragraphs (c) and (d), at Champaign, Illinois.

The record shows the following assignment of forces at Champaign Roundhouse:

Three shifts assigned, beginning at 7:00 A. M., 3:00 P. M., and 11:00 P. M., each working eight (8) consecutive hours, with an allowance of twenty minutes for lunch, with pay.

One shift assigned from 7:00 A. M. to 4:00 P. M., with an allowance of one hour for lunch, without pay.

One shift assigned from 8:00 P. M. to 5:00 A. M., with an allowance of one hour for lunch, without pay.

It was the general practice to work the two shift assignments on repairs with the three shift assignments a considerable part of the time, which is in conflict with the provisions of Rule 2 and interpretation of Rule 2 (Section A), negotiated in conference, effective December 1, 1938.

The re-assignment of the car department forces is admittedly in accordance with the provisions of Rule 2.

AWARD

Claim sustained without compensation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of November, 1941.