

Award No. 799

Docket No. 753

2-Wab.-CM.'42

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

WABASH RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the controlling agreement, Car Inspector A. D. Wakeman be compensated at rate and one-half for the second eight hours worked from 11:00 P. M. to 7:00 A. M. on Christmas, December 25, 1941.

EMPLOYEES' STATEMENT OF FACTS: The carrier at Decatur, Illinois, maintains in the train yard, three shifts of carmen seven days a week, and one shift, and on some occasions two shifts, of carmen on car repair tracks six days a week.

Car Inspector A. D. Wakeman is regularly employed on the 3:00 P. M. to 11:00 P. M. shift, seven days a week.

On Christmas, December 25, 1941, Car Inspector Wakeman, after working his regular shift, was required to double over on the third shift from 11:00 P. M. to 7:00 A. M. and thus worked sixteen (16) consecutive hours.

Car Inspector Wakeman requested payment of rate and one-half for the second eight hours worked on December 25, but the carrier declined the request on the grounds that it had no merit.

POSITION OF EMPLOYEES: It is our contention that under the controlling agreement, the claimant fulfilled all contractual requirements at the straight time rate of pay when he worked on Christmas Day, December 25, 1941, his regular shift, eight (8) hours from 3:00 P. M. to 11:00 P. M. This contention is conclusively confirmed by the following terms of said agreement:

(a) Rule 1, in part reads—

“Eight hours service shall constitute a day,”

and the claimant rendered the carrier eight hours' service on the aforesaid date and shift.

(b) Rule 3 (b), in part provides—

“ . . . employes necessary to the operation of . . . train yards . . . who are regularly assigned by bulletin to work on Sundays and holidays . . . will be compensated on the same basis as on week days. . . .”

and the claimant was one of such **assigned by bulletin** employes to work on Christmas Day. He worked his regular hours, although a

existing in the case under consideration pro rata rate would be paid under the provisions of Rule 3, it is obvious that Mr. Wakeman was properly compensated under the rules for the service performed from 11:00 P. M. to 7:00 A. M. on the date in question, i. e., eight hours at straight time rate. Therefore, it is the position of the carrier that the alleged claim as set up by the petitioner in his ex parte statement of claim is without foundation under the rules of the schedule for shop crafts, effective June 1, 1939, and that the contention of the petitioner should be dismissed and the claim 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 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.

A. D. Wakeman performed eight (8) hours continuous service after his regular working hours and is entitled to time and one-half for such continuous service under the terms of Rule 4 (a) "For continuous service after regular working hours, employes will be paid time and one-half * * * for any such service performed."

AWARD

Claim of employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 17th day of June, 1942.