

Award No. 1010
Docket No. 942
2-LV-CM-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 96, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the controlling agreement and Rule 4 thereof, the carrier arbitrarily changed the hours of work of Carman Albert Szopa from 11:00 P. M. to 7:00 A. M., to 10:30 P. M. to 6:30 A. M., effective January 26, 1943.

2. That under the controlling agreement and Rule 8-5 thereof, the carrier be ordered to pay Carman Albert Szopa a minimum of one additional hour at the pro rata rate from 10:30 P. M. to 11:00 P. M., each day he has worked since January 25, 1943.

EMPLOYEES' STATEMENT OF FACTS: At the Buffalo passenger depot, the carrier employs a sizable force of carmen on each shift, and on January 25, 1943, the hours of these shifts were established to be from 7:00 A. M. to 3:00 P. M.; 3:00 P. M. to 11:00 P. M. and 11:00 P. M. to 7:00 A. M.

The Buffalo passenger depot seniority territory includes Scott Street freight yard, passenger and express work at Depew and Williamsville. See letters signed by Mr. Sellers and Mr. Grove, submitted and identified as Exhibit A.

Carman Albert Szopa, the claimant, was and still is employed in the Buffalo passenger depot seniority territory, and who in addition to working part time at Buffalo passenger depot, also works at Depew.

On January 26, 1943, this claimant's hours were arbitrarily established from 10:30 P. M. to 6:30 A. M. This was protested as a violation of Rule 4 and progressed, when on March 11, 1943, his position was bulléted, copy of which is submitted and identified as Exhibit B.

Claimant Szopa made application for this Buffalo and Depew position, under protest pending settlement of the claim, and he was awarded the job.

The carrier has declined to change the claimant's hours or pay him one additional hour at the pro rata rate for his services from 10:30 to 11:00 P. M.

The controlling agreement is dated effective November 1, 1942.

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 waived right of appearance at hearing thereon.

The evidence of record supports the following conclusions: that the assignment involved is one of long standing; that it is required by the needs of the service; that it was properly bulletined at the prevailing hours and so bid in by the claimant; that it is established primarily for the regular performance of work at Depew; that under this assignment no work is performed by the claimant at Buffalo station either at 10:30 P. M., the established starting time, or at 11:00 P. M., the time at which it is alleged the assignment should start; that it does not constitute an irregular third shift or a fourth shift at Buffalo station; that the completion of the claimant's tour of duty at Buffalo station, which is part of his seniority district, after his work at Depew is finished, does not infringe upon any rule of the agreement or alter the propriety of the assignment; that the controlling agreement did not require the carrier to change the hours of this assignment; and that there has been no violation of Rule 4 of this agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of March, 1944.