

Award No. 1063

Docket No. 978

2-NYNH&H-CM-'45

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

(Howard S. Palmer, James Lee Loomis and Henry B. Sawyer, Trustees)

DISPUTE: CLAIM OF EMPLOYES:

1. That the carrier violated the controlling agreement when Passenger Equipment Painter F. Signorelli was required to paint in the power plant for straight time on Saturday, October 12, 1940.
2. That F. Signorelli shall be paid at the rate of time and one-half.

JOINT STATEMENT OF FACTS: Mr. F. Signorelli, passenger equipment painter, is employed at the Readville car shop, Readville, Massachusetts.

It is agreed that the shop forces were working a five-day week, Monday to Friday, inclusive.

The claimant was regularly employed as passenger equipment painter. On Saturday, October 12, 1940, he was assigned to work with the maintenance painter to paint an aftercool tank in the power plant, which work it is agreed was shop maintenance work.

The claimant only received straight time for this service.

POSITION OF EMPLOYES: It is the contention of the employees that Rule 4 of the controlling agreement that reads in part as follows was violated: "All time worked in excess of eight hours and continuous with regular bulletined hours, * * * will be paid for at the rate of time and one-half on the minute basis." At the Readville shops, Readville, Massachusetts, the carrier maintained passenger equipment carman-painters and shop maintenance carman-painters on a five-day week basis, Monday to Friday, inclusive.

The claimant was regularly employed as a passenger equipment carman-painter. On Saturday, October 12, 1940, the claimant was assigned along with a regular shop maintenance painter to paint an aftercool tank in the power plant.

For this service, the claimant was paid straight time, and the carrier has declined to adjust his compensation at the time-and-one-half rate.

It is agreed between the carrier and the employees that the claimant was engaged in performing shop maintenance work.

POSITION OF CARRIER: Mr. Signorelli was employed as painter in the Readville car shop. At the time of the claim, the car shop was working on a five-day-per-week schedule, Mondays to Fridays, inclusive, excluding weeks in which the holidays referred to in Rule 3 occurred. On Saturday, October 12, 1940, he was required to work in connection with the painting of an aftercool tank in the Readville shop power plant and which work, it is agreed, is that of shop maintenance. It is claimed, however, that Signorelli was not a shop maintenance employe on other days of the week and notwithstanding that he admittedly performed shop maintenance work on October 12, it is claimed that he should be paid time and one-half under Rule 4 for shop maintenance work on Saturday when the shop was not otherwise working.

It was conceded that if an employe were engaged in shop order work on a day when the shops were otherwise closed, he would be entitled to only the straight time, the distinction in the condition being made on the basis of the language as to shop maintenance referring to "employe" and as to shop order referring to "work." The rule carries with it no such distinguishment. It would be just as logical to argue that employes required to work when the shops were closed down on account of a breakdown, flood, fire or the like, should be paid time and one-half because they were not engaged in that work all of the time. Having been engaged in shop maintenance work, Signorelli became a shop maintenance employe for October 12, 1940, and is entitled only to straight time under Rule 27.

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.

This case was submitted on a joint statement of facts, in which it is agreed that claimant worked as a passenger equipment painter, that the employes were working a five day week, Monday to Friday inclusive, and that Saturday, October 12, 1940, on which day he was required to work, was a day on which claimant's department was not scheduled to work. Under the controlling agreement, claimant being required to work on Saturday, he is entitled to be paid time and one-half for that day.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 2nd day of May, 1945.