

**Award No. 1434**  
**Docket No. 1351**  
**2-SPL(T&NO)-MA-'51**

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Frank M. Swacker when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 162, RAILWAY EMPLOYEES'**  
**DEPARTMENT, A. F. of L. (Machinists)**

**SOUTHERN PACIFIC LINES IN TEXAS AND LOUISIANA**  
**(TEXAS AND NEW ORLEANS RAILROAD COMPANY)**

**DISPUTE: CLAIM OF EMPLOYEES:**

1—That under the current agreement the assignment of Machinist R. M. Fraim was improperly changed from working Monday through Friday, with rest days Saturday and Sunday to working on a newly created position Wednesday, Thursday and Friday as a machinist and Saturday and Sunday as a relief foreman effective February 10, 1950.

2—That accordingly the carrier be ordered to:

(a) Restore this employe to his former work-week assignment of Monday through Friday, with Saturday and Sunday as rest days.

(b) Make this employe whole by additionally compensating him at overtime rate instead of straight time for the services which he was assigned to perform on each Saturday and each Sunday, retroactive to February 11, 1950.

(c) Make this claimant whole by additionally compensating him eight hours at the applicable rate of pay for each Monday and each Tuesday that he was not permitted to work, retroactive to February 13, 1950.

**EMPLOYEES' STATEMENT OF FACTS:** Machinist R. M. Fraim, herein-after referred to as the claimant, was regularly employed by the carrier at Del Rio, Texas and effective on September 1, 1949, this claimant was assigned to a work week of Monday through Friday with rest days of Saturday and Sunday, a copy of which is submitted herewith and identified as Exhibit A. This assignment continued until February 6, 1950, when a notice was posted abolishing this claimant's assignment effective with the close of work on his shift February 10, 1950 and a copy thereof is submitted herewith and identified as Exhibit B. On February 6, 1950 Bulletin No. M-1 was posted for one machinist to work from 8:00 A.M. to 4:00 P.M., Wednesday through Sunday, with rest days of Monday and Tuesday to which the claimant was assigned, a copy of which is submitted herewith and identified as Exhibit C. Since this new position was created, the claim-

**CONCLUSIONS:**

The carrier has shown that this case has not been handled in the usual manner on the property in that it was never discussed in conference between representatives of the employes with the representatives of the carrier as required by the Railway Labor Act. When the manager of personnel, who has been designated as the chief operating officer of the carrier designated to handle such disputes, gave his decision to the general chairman of the organization, it was expected that the general chairman would either accept the decision as satisfactory or ask that a conference be appointed to discuss the case. That is the usual manner of handling disputes. After the manager of personnel gave his written decision to the general chairman on the dispute, no more was heard of it until a notice was received from Acting President Fox that the matter would be submitted to the Second Division.

The Carrier has shown that prior to February 10, 1950, Machinist Fraim was assigned to work Monday through Friday and that occasionally he was used temporarily to relieve the roundhouse foremen. He had always been used to relieve the roundhouse foreman. Fraim did not want to work five days a week, but wanted to work six or seven days a week and for that reason he made a grievance that it was improper to change his assignment from working Monday through Friday, with rest days Saturday and Sunday, to a newly created job (for which he applied in writing) to work Wednesday, Thursday, Friday, Saturday and Sunday, with designated rest days Monday and Tuesday. He now asks to be paid other than provided for by the agreement for work on Saturday and Sunday and that he be paid for no work performed nor service rendered for his designated rest days. The organization has not given reference to any provision of any agreement that supports any such contention or claim. The carrier holds that no provision of any law or any agreement restricted its right to abolish the old assignment, to create a new assignment and to use machinist Fraim temporarily as relief foreman.

Wherefore, premises considered, the carrier respectfully urges that the claim be in all things 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.

Both the Railway Labor Act, and the established procedure on the property require that cases be conferred upon by the parties before they will be cognizable by this Board. This means a *sincere* effort be made to solve the dispute—not a mere perfunctory conversation or reference to it. No such conference was held in this case; it is therefore here prematurely.

**AWARD**

Case remanded for conference between the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of March, 1951.