

Award No. 1614

Docket No. 1484

2-P&SF-CM-'53

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Carroll R. Daugherty when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

THE PANHANDLE AND SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carmen A. C. Guillen, P. E. Allen, R. T. McGinnis and Carmen Helpers J. Donley and Ray Farror were improperly assigned to a work week Wednesday through Sunday with rest days of Monday and Tuesday.

2. That accordingly the carrier be ordered to:

- a) Assign these employees to a proper work week of Monday through Friday with rest days of Saturday and Sunday.
- b) Make these employees whole by compensating them additionally at the applicable overtime rates instead of straight time for service which they were assigned to perform on each Saturday and each Sunday, retroactive to September 1, 1950.
- c) Make these employees whole by compensating them additionally in the amount of eight (8) hours at the applicable rate of pay for each Monday and each Tuesday retroactive to September 1, 1950 because they were laid off to equalize the time due to the assignment to work their proper rest days.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1949, Carmen A. C. Guillen, P. E. Allen, R. T. McGinnis and Carmen Helpers J. Donley and Ray Farror, hereinafter referred to as the claimants, worked regularly an assignment of six days per week, Monday through Saturday, first shift hours 8:00 A.M. to 12:00 Noon and 12:30 P.M. to 4:30 P.M. on the car department repair track at Amarillo, Texas.

On or subsequent to September 1, 1949, these claimants were arbitrarily assigned by the carrier to positions as car repairers and helpers on the first and only shift 8:00 A.M. to 12:00 Noon and 12:30 P.M. to 4:30 P.M., Wednesday through Sunday with rest days of Monday and Tuesday at Amarillo, Texas.

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.

After the 40-Hour Week Agreement became effective on September 1, 1949, Carmen A. C. Guillen, P. E. Allen, and R. T. McGinnis and Carmen Helpers J. Donley and Ray Farror, claimants in this case, were assigned to Wednesday-Sunday work weeks, with rest days of Monday and Tuesday, on the carrier's "running" car repair tracks at Amarillo, Texas. Before the above-mentioned date these employes had been on Monday-Saturday work weeks.

As in the case decided by Award No. 1599, the organization here has the burden of establishing that the carrier's action was and is in violation of the letter of agreement of October 6, 1950, or of the provisions of the 40-Hour Week Agreement, signed by the parties.

For the reasons set forth in our Award No. 1599, we do not find that the organization has sustained this burden. We think the organization has failed to show that (1) the letter of agreement is controlling in respect to "running" car repairs of the sort involved in the instant case; (2) there is and has been, since September 1, 1949, no need for the assignment of the protested work weeks; and (3) such assignments are and have been in violation of the meaning and intent of the 40-hour week rules.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 7th day of January, 1953.

DISSENT OF LABOR MEMBERS TO AWARDS NOS. 1599, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, and 1617.

Prior to September 1, 1949 the regular bulletined hours for car department repair track forces were 8 a. m. to 12 noon and 12:30 p. m. to 4:30 p. m., Monday through Saturday (six days a week) in conformity with Rule 2 of the agreement effective August 1, 1945. The regular bulletined hours of these forces did not include Sundays or Holidays.

The agreement as amended September 1, 1949 did not change the regular bulletined hours of the repair track forces and did not authorize the inclusion of Sundays or Holidays in the weekly five day assignment of these forces.

The letter agreement of October 6, 1950 constitutes a mutual settlement of the dispute regarding staggered work weeks for repair track forces. Since the instant repair track force is not one of the points where a staggered work week is authorized, it follows that the claim should have been sustained retroactive to and including October 16, 1950.

/s/ Edward W. Wiesner

/s/ R. W. Blake

/s/ A. C. Bowen

/s/ T. E. Losey

/s/ George Wright