

Award No. 1632

Docket No. 1538

2-IC-CM-'53

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That under the current agreement car inspectors S. H. Lee, J. W. Brown, Frank Shirley, P. W. Brown, E. A. Pollock and Lee Powless were unjustly dealt with when the carrier declined to compensate them for their service outside of their bulletined hours on November 12, 1951.

2—That accordingly the Carrier be ordered to compensate these aforesaid car inspectors a minimum of four (4) hours at the straight time rate for their service outside of their bulletined hours between 10:00 A. M. and 11:30 A. M. on November 12, 1951.

EMPLOYES' STATEMENT OF FACTS: Car Inspectors S. H. Lee, J. W. Brown, and Frank Shirley, are regularly assigned to the 3:00 P. M. to 11:00 P. M. shift. Car Inspectors P. W. Brown, E. A. Pollock and Lee Powless are regularly assigned to the 11:00 P. M. to 7:00 A. M. shift. These car inspectors, hereinafter referred to as the claimants are employed in the train yard at Clinton, Illinois.

The carrier ordered these claimants to report at the general foreman's office at 10:00 A. M. November 12, 1951, for an informal investigation concerning the delay to Extra 2140 which was listed for 11:40 P. M., November 11, 1951, but did not depart until 4:45 A. M. November 12, 1951. These claimants as instructed reported for this service outside of their assigned working hours at 10:00 A. M. and they were released at 11:30 A. M. For this service, the claimants turned in a time card which the carrier has declined to pay.

The agreement effective April 1, 1935, as subsequently amended is controlling.

POSITION OF EMPLOYES: It is submitted that these claimants did report for this investigation. Rule 7, of the current agreement reads in pertinent part as follows:

"Men called back to work after leaving the company premises will be paid time and one-half for every hour worked, with a mini-

3. Employees have acquiesced in this interpretation of the agreement.

4. There was a mutuality of interest in the investigation held on November 12, 1951, in that claimants were concerned in and directly responsible for delay to Extra 2140.

It is the contention of the carrier that this claim is entirely without basis and should be 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 waived right of appearance at hearing thereon.

Claimants were car inspectors at Clinton, Illinois. On November 12, 1951, they were called for an investigation because of the failure of Train 2140 to depart on time on account of a failure of the airbrake equipment, the maintenance of which was the duty of the claimants. No discipline was assessed. Claimants contend they are entitled to be paid for the time spent at the investigation, it having been held outside their assigned hours. The organization relies upon the following rule:

“Men called back to work after leaving the company premises will be paid time and one-half for every hour worked, with a minimum time allowance of four (4) hours for two (2) hours and forty (40) minutes work or less, . . .”

(Rule 7, current agreement).

Claimants were called to the investigation with reference to the performance of their duties as they bore upon the delay to Train 2140. It was a matter of personal concern to them. Whatever the rule may be in other cases, claimants are not entitled to be paid for the time spent in attending the investigation under these circumstances. It is not “work” within the meaning of Rule 7. See Awards 2132, 3230, 3343, 4909, 5376, Third Division. The reasoning of the foregoing awards is persuasive and not in conflict with the awards of this Division. See Award 55. In addition thereto, it appears that the parties have so construed the rule on this property. No basis for an affirmative award exists.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of January, 1953.