

Award No. 1669

Docket No. 1571

2-GC&SF-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. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carmen H. E. Lueck, R. W. Britton, Jr., J. H. Holt, C. E. Hitchcock, J. W. Sluder, O. L. Orand and Carman Helpers C. H. Harris, F. Lewellen, C. D. Reat, C. O. Whitlow, A. T. Hacker and W. B. Orand were improperly assigned to a work week Sunday through Thursday with rest days, Friday and Saturday.

2. That accordingly the Carrier be ordered to:

- (a) Assign these employees to a proper work week Monday through Friday with rest days Saturday and Sunday.
- (b) Make these employees whole by compensating them additionally at applicable overtime rates instead of straight time for the service which they were assigned to perform on each Sunday, retroactive to August 31, 1949.
- (c) Make these employees whole by compensating them additionally in the amount of eight (8) hours at the applicable rate of pay for each Friday retroactive to August 31, 1949, 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 (Car Repairers) H. E. Lueck, R. W. Britton, Jr., J. H. Holt, C. E. Hitchcock, J. W. Sluder, O. L. Orand and Carman Helpers C. H. Harris, F. Lewellen, C. D. Reat, C. O. Whitlow, A. T. Hacker and W. B. Orand, 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 1:00 P.M. to 5:00 P.M. on the car department repair track located at Temple, Texas. On September 1, 1949, these claimants were arbitrarily as-

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.

Claimants were assigned on or about September 1, 1949, at Temple, Texas, to positions of car repairers, Sunday through Thursday with rest days of Friday and Saturday. Claimants contend that this assignment is violative of controlling agreements in that they should have been assigned with rest days of Saturday and Sunday. They ask to be compensated for the violation.

We think the record clearly shows that there was car repair work to be performed at this point seven days each week. The carrier appears to have staggered the assignments to eliminate as much work on Saturdays and Sundays as is possible. That is in accord with the intent of the 40 hour work week agreement. But since it is shown that Saturday and Sunday work exists, the positions are 7-day positions and the assignments may be staggered in accordance with Rule 1(b), current agreement.

This case is identical with one decided in Award No. 1653 and must necessarily come to the same result. The reasoning supported Award No. 1653 is fully set forth in Award No. 1644 which we reaffirm. A denial award is required.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1953.

LABOR MEMBERS' DISSENT TO AWARD No. 1669

Prior to September 1, 1949, the "regular bulletined hours" for the car department repair track force were Monday through Saturday (six days a week) in conformity with Rule 2 of the Agreement effective August 1, 1945. The "regular bulletined hours" of this force did not include Holidays.

The agreement as amended September 1, 1949 did not change the "regular bulletined hours" of the repair track force and did not authorize the inclusion of Sundays or Holidays in the weekly five day assignment of this force. (See Second Division Awards 1432, 1443, 1444).

The Letter Agreement of October 6, 1950 constitutes a mutual settlement of the dispute regarding staggered work weeks for repair track forces.