

Award No. 1673
Docket No. 1566
2-CRI&P-EW-'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. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier improperly denied Lineman E. G. Schlede compensation for time away from headquarters while performing service on his assigned rest day during the hours of 12:01 A. M. to 8:00 A. M., March 31, 1951.

2. That accordingly the Carrier be ordered to compensate the aforementioned Lineman at the time and one-half rate for the aforesaid period set forth in one above.

EMPLOYES' STATEMENT OF FACTS: Section Lineman E. G. Schlede, hereinafter referred to as the claimant, was notified of wire trouble at Hope, Minnesota, at 10:30 A. M., Friday, March 30, 1951. He was out after this trouble until 10:30 P. M. that evening. He tied up at Cedar Falls, Iowa, at 10:30 P. M. got up at 4:00 A. M., March 31 and started after the trouble again. He cleared the trouble and arrived back at headquarters, Albert Lea, at 4:30 P. M.

The carrier compensated the claimant for the hours 8:00 A. M. to 4:30 P. M. but, refuses to allow compensation for the hours 12:01 A. M. to 8:00 A. M. March 31, 1951.

The agreement effective September 1, 1944, as subsequently amended is controlling.

POSITION OF EMPLOYES: It is submitted that the claimant was away from his headquarters performing service for the carrier during the hours 12:01 A. M. to 8:00 A. M., March 31, 1951, which hours constituted a portion of his rest day and accordingly is entitled to be compensated for such hours at the time and one-half rate under the provisions of Rule 3(e) and 7 of the current agreement.

Rule 3(e) provides as following:

"Linemen assigned as section linemen shall be paid a monthly rate covering all services rendered during such assignment, and, in

and the claimant in this case in the period 12:01 A. M. to 8:00 A. M., March 31, 1951, performed no service for the Carrier. Further, the overtime rule applying to the claimant provides for the payment of overtime rate only for work. Rule 3 (d), and under the exception to this rule, provides that when sleeping accommodations are provided away from headquarters "no pay will be allowed for time while not working".

Inasmuch as no rule of the controlling agreement was violated, we respectfully petition the Board to deny the claim.

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.

Claimant is a monthly rated section lineman with Saturday and Sunday as rest days and stand-by days on alternate weeks. Claimant was called out because of wire trouble at 10:30 A. M., Friday, March 30, 1951, one of his regularly assigned work days. Claimant worked away from his headquarters until 10:30 P. M., at which time he went to bed. He got up and commenced work at 4:00 A. M. Saturday, March 31, 1951, and completed the work at 4:30 P. M. on that day. There is no dispute concerning the work performed on Friday, March 30, 1951. The contention of the organization is that claimant's rest day, Saturday, commenced at 12:01 A. M. of that day and that claimant should be paid at the time and one-half rate from 12:01 A. M. to 4:30 P. M. The carrier contends that claimant's rest day commenced at 8:00 A. M. on Saturday and ended at 7:59 A. M. Sunday, April 1, 1951.

The carrier relies upon Award 1485. This award is exactly in point with one exception. The award states that the recognized starting time of the claimant in that dispute was 8:00 A. M. No starting time is established by the record in the case before us. Where an employe has an assigned starting time, the day is the 24-hour period following such starting time unless the rules otherwise provide. This simply means that the calendar day applies except where a starting time has been assigned. In the present case, no starting time is shown by the record to have been assigned. Under such circumstances the calendar day rule is controlling and claimant's rest day commenced at 12:01 A. M. on Saturday. This appears to have been the practice during the time here involved as shown by a letter of June 12, 1952, by carrier's superintendent of communications wherein it is said: "After further consideration of this question, it has been decided to return to the previous practice followed, namely, stand-by days, rest days, holidays of the monthly rated Section Linemen and Radio-Communications Maintainers shall start at 12:01 A. M. on such days and end at 11:59 P. M. Midnight."

It is clear from the record that claimant has not been paid for the work he performed from 4:00 A. M. to 8:00 A. M., on his rest day. He is entitled to pay for that work at the time and one-half rate. The only question remaining is whether he is entitled to pay from 12:01 A. M. to 4:00 A. M. on his rest day. Claimant was away from his headquarters during this period and it was a part of the sleeping period that he required. The organization contends that claimant should be paid for all the time he is held away from his headquarters on his rest day. The carrier asserts that he should be paid only for time actually worked on his rest day.

The organization relies upon that portion of Rule 3 (e), current agreement, which provides:

“Such employees are not subject to provisions of the schedule pertaining to calls, travel time, or other provisions which conflict with this rule, except if required to perform service on rest day, overtime rules applicable to other employes of the same craft or class shall apply to service on such assigned rest day.”

The overtime rule, Rule 7, current agreement provides for the payment of the overtime rate for any service performed which comes within the rule. The organization contends that all time spent away from an employee's headquarters on his rest day, including time spent in resting or sleeping, constitutes service for which the overtime rate applies. We do not think that the agreement so provides. Under Rule 3 (d) 4, current agreement, it is provided that hourly rated employees who are directed to leave their headquarters will be paid overtime rates for work (not traveling or waiting) during overtime hours. It is specifically provided in the exceptions to items (2), (3) and (4) to Rule 3 (d) that after arrival at away from home point when sleeping accommodations are furnished, no pay will be allowed for time not worked except in one situation not pertinent here. We think these provisions exclude time spent sleeping where sleeping accommodations are furnished as they were here. These rules are applicable to the present case because they are of the same craft or class referred to in Rule 3 (e). We find, therefore, that claimant is not entitled to be paid for the time spent sleeping from 12:01 A. M. to 4:00 A. M. on his rest day. He is entitled to pay from 4:00 A. M. to 8:00 A. M., at time and one-half rate, it being time worked on his rest day. The claim is sustained for four hours at the overtime rate.

AWARD

Claim sustained per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of May, 1953.