

Award No. 1752  
Docket No. 1654  
2-PRR-URRWA-CIO-'54

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

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**PARTIES TO DISPUTE:**

UNITED RAILROAD WORKERS OF AMERICA, C. I. O.

THE PENNSYLVANIA RAILROAD COMPANY

—Central Region—

**DISPUTE: CLAIM OF EMPLOYEES:** 1. That within the meaning of the Controlling Agreement, the Carrier stands in violation thereof, due to the fact F. C. Swank was unjustly dealt with at Derry Shop Track, Pittsburgh Division, Central Region.

2. We claim F. C. Swank, regularly assigned Car Repairman Helper, first trick should be compensated eight hours at the pro rata Carman Helper's rate for every day denied the right to work his regular bulletined hours, first trick.

3. We further claim he should be additionally compensated the difference between pro rata Car Inspector's rate and punitive Car Inspector's rate for every hour he works as a Car Inspector, before or after his bulletined hours.

**EMPLOYEES' STATEMENT OF FACTS:** There is an agreement between the parties to this dispute, dated July 1, 1949 and subsequent amendments, copy of which is on file with the Board and is, by reference hereto, made a part of this statement of facts.

At Derry Shop Track, Pittsburgh Division, Central Region, the carrier employs a force of carmen and carmen helpers on a twenty-four hour basis.

F. C. Swank, hereinafter referred to as the claimant, is employed as a carman helper, tour of duty, first trick, rest days—Saturday and Sunday.

The Pennsylvania Railroad Company, hereinafter referred to as the carrier, unilaterally assigned the claimant to the duties of car inspector, third trick, from March 20, 1951 until job was advertised and filled by an award, such award being effective April 12, 1951.

The employes filed claim for all time the claimant was denied the right to work the hours of his regular assignment at the pro rata rate of carman helper.

The claim also included payment for the difference between pro rata and punitive car inspector's rate for all the hours so assigned.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the organization in this matter.

**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.

On March 20, 1951, a permanent vacancy occurred in position of Car Inspector, third shift, Derry Yard, Pennsylvania. There were no qualified demoted carmen or carmen helpers working on the third shift at the location involved, who could have been assigned to the vacancy under the provisions of Regulation 2-A-4 of the controlling agreement. To fill this vacancy, pending expiration of advertisement and award, the Claimant possessing mechanic seniority in the carman class, and who was the senior demoted mechanic working as a helper on the first trick, was offered and accepted the vacancy which he began filling on March 21, 1951, and continued in same until the position was awarded to a senior applicant on April 12, 1951. There is no dispute regarding the above facts.

It is the petitioner's position that when the procedures outlined in Regulation 2-A-4 for filling vacancies are exhausted, the carrier is required to fill the vacancy by holding an employe on duty from a previous shift, paying penalty rate for time worked in excess of eight (8) hours. It is the position of the carrier that after the provisions of Regulation 2-A-4 are complied with, the provisions of Regulation 2-A-1 are applicable in that helpers may be upgraded and assigned as mechanics on shifts other than those on which they are working as helpers.

The facts and evidence submitted in this case do not justify a sustaining award.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 1st day of April, 1954.