

Award No. 1944
Docket No. 1781
2-AT&SF-EW-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (ELECTRICAL WORKERS)**

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
—EASTERN LINES—**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current applicable Agreement the Carrier declined to properly compensate Shop Extension Department Electrical Workers, L. S. Wettengel and R. Hess for construction and maintenance work performed on September 26, 1953, from 8:00 A. M. to 5:00 P. M. and from 6:00 P. M. to 8:00 P. M. at Oklahoma City, Oklahoma.
2. That accordingly, the Carrier be ordered to pay Shop Extension Electrical Workers L. S. Wettengel and R. Hess for the aforesaid time of eleven (11) hours at the applicable time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: Shop Extension Department Electrical Workers, L. S. Wettengel and R. Hess, hereinafter referred to as the claimants, are monthly rated employees, regularly employed by the carrier in the mechanical department in the shop extension electrical department, Eastern Lines, as construction and maintenance electricians, headquarters Wichita, Kansas.

On Saturday, September 26, 1953, the claimants were instructed to install and maintain wiring and equipment, to maintain air conditioning equipment Pullman Cars parked at Oklahoma City, Oklahoma Yards, and used on the Notre Dame football special train. The claimants complied with these instructions and were required to work from 8:00 A. M. to 5:00 P. M. and from 6:00 P. M. to 8:00 P. M. on a Saturday, September 26, 1953, which is the sixth day of the claimants' work week. The carrier compensated these claimants an additional amount of pay, four (4) hours, which was not the full amount of pay due for this eleven (11) hours of time worked.

The agreement dated August 1, 1945, as amended January 22, 1946, and September 1, 1949, is controlling.

allowed for any time worked in excess of eight hours per day." The carrier has already pointed out that on this date the regular meal period was taken between 12:00 noon and 1:00 P. M. and that both Hess and Wettengel reported and were allowed \$1.10 for the noon meal. The carrier has also already pointed out that Hess and Wettengel were allowed four (4) hours compensation each, for this Saturday, in addition to pay for that day included in their monthly salaries.

The carrier petitions the Board to decline the claim on the basis that the work required of Lead Electrician Hess and Electrician Helper Wettengel was of the same nature as that required of employees of this classification to perform on Sunday, prior to September 1, 1949, and that under the supplemental agreement of May 13, 1949, paragraph (i), Rule 14, the carrier has the right to have such work performed on Saturday, subsequent to September 1, 1949, allowing therefor punitive compensation of not to exceed four (4) hours pay, in addition to pay for the day included in monthly salary.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Thirteen Pullman cars were brought into Oklahoma City by special trains on Friday and Saturday morning to transport fans attending a football game, and laid over there until the train left Saturday evening. The cars were parked near the depot and electrical connections made for standby service including air conditioning necessary because of the temperature. All preparatory work possible had been done in advance except necessary connection service after arrival and standby service and disconnection service before departure. This was performed on Saturday by claimant electrical workers who were paid additional compensation for four hours under Rule 14 (b).

Claimants are monthly rated employees and it is claimed by employees that payment should have been for the full time worked for the reason that it was work not properly required of them on Saturday under Rule 14 (i) of agreement effective September 1, 1949, reading:

"Where employees now have a bulletined or assigned rest day, conditions now applicable to such bulletined or assigned rest day shall hereafter apply to the sixth day of the work week. Where employees do not now have bulletined or assigned rest day, ordinary maintenance or construction work not heretofore required on Sunday will not be required on the sixth day of the work week."

Employees admit that the work was necessary but assert there was no emergency and therefore it was "maintenance and construction work not theretofore required on Sunday." We think the requisite for Sunday work before the Forty Hour Week rule was not emergency but urgency; not whether it had been foreseen but whether it could well be prevented.

The work here involved was not ordinary, but extraordinary, in that it was very seldom required and of necessity had to be performed on Saturday. Practice on the property is shown to support our conclusion that the work was properly required on Saturday.

Employees rely on Award 1704 of this Division where in somewhat similar situation the Award says: "The question is, was the work here of emergency

character?" We think that this referred to need for immediate action and that the crux of the issue there determined was expressed in the later sentence: "We can see no reason why carrier could not have had it done on one of claimant's work days." In the instant case there was convincing reason why it could not be done on any other day than Saturday.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of June, 1955.