

**Award No. 1959**

**Docket No. 1853**

**2-CMStP&P-MA-'55**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee J. Glenn Donaldson when the award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 76, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. of L. (Machinists)**

**THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC  
RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** 1. That under the current Agreement Machinist L. O. Stolen was improperly compensated for changing from one shift to another on December 9, 1953.

2. That accordingly the Carrier be ordered to additionally compensate the aforesaid Machinist in the amount of 4 hours pay at the straight time rate.

**EMPLOYES' STATEMENT OF FACTS:** Machinist L. O. Stolen (hereinafter referred to as the claimant) is employed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the carrier) at Tacoma, Washington. The claimant holds seniority position No. 68 on the January 1, 1954 roster of machinists at Tacoma, a copy of which is submitted herewith and identified as Exhibit A. There are seven junior machinists to the claimant on the 1954 roster. The carrier made the election to reduce the force of two machinists at the wheel shop in their notice dated December 4, 1953, a copy of which is submitted herewith and identified as Exhibit B. The claimant assigned on the 3:30 P. M. to 11:30 P. M. shift was involved, and as a result of the carrier's action in electing to reduce the force of machinists, he was forced to work on the 11:30 P. M. to 7:30 A. M. shift beginning December 9, 1953, on a position held by Machinist Frank Robinson, roster No. 73 at the roundhouse. The carrier refused to compensate the claimant the overtime rate for changing shifts and the dispute has been handled with carrier officials designated to handle such affairs, who all declined to adjust it.

The agreement effective September 1, 1949, as subsequently amended, is controlling.

It is submitted that Rule 27 (a), which reads as following:

"When it becomes necessary to reduce expenses, reduction will be accomplished by reducing forces at any point, shop, de-

As stated above, Claimant Stolen was one of the two junior machinists laid off in the car department wheel shop. That was where the reduction in force was made. Inasmuch as the reduction was confined to the car department wheel shop, the carrier fully complied with the schedule rule in laying off the two junior machinists in that shop. In view of the fact that Claimant Stolen chose to exercise his seniority to displace the junior machinist on the third shift in the roundhouse, in accordance with the schedule rule, he cannot properly contend he is entitled to payment under Schedule Rule 13 which specifically provides that: "This rule will not apply when shifts are changed in exercise of seniority or at employe's own request".

The claim in behalf of Claimant Stolen has no support under the schedule rules and as the carrier strictly complied with the schedule rules we respectfully request that the claim 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 were given due notice of hearing thereon.

Effective December 8, 1953, carrier reduced its wheel shop force by two machinists. Claimant was one of the two machinists so affected. Prior to the close of the shift on December 8, he was assigned 3:30 P. M. to 11:30 P. M. He next performed services as a machinist on the third shift in the roundhouse from 11:30 P. M., December 9, until 7:30 A. M., December 10, having informed the general foreman that he was desirous of the job.

Rule 13(a) provides, in part, as follows:

"Employes changed from one shift to another will be paid time and one-half rate for the first shift of each change. \* \* \* This rule will not apply when shifts are changed in exercise of seniority or at employe's own request."

Claimant contends that under the above-quoted rule he was entitled to time and one-half rather than the pro rata rate on the first shift of his work at the roundhouse.

Rule 27(a), likewise involved, reads as follows:

"When it becomes necessary to reduce expenses, reduction will be accomplished by reducing forces at any point, shop, department or subdivision thereof, seniority as per Rule 31 to govern; the employes affected to take the rate of the job to which they are assigned."

The organization argues that the carrier failed to comply with the latter part of Rule 27(a) by failing to assign the claimant to a job and requiring him to exercise displacement rights over a junior machinist on the third shift. Further, that the change of shifts resulted from the action of the carrier in reducing the force and not by the desire of a change by the claimant.

The two rules involved in this case have received the prior attention of this Division in disputes between the same parties. Award 1895, decided without a referee, construed Rule 27(a), and Award 1422 construed Rule 13. Both awards were favorable to the organization and we find nothing in the

submission before us to warrant a different result. The claimant having indicated a desire to accept the roundhouse position, the transfer was effected by the assignment of carrier and not by exercise of seniority within the meaning of Rule 13.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June, 1955.