

Award No. 1975

Docket No. 1823

2-PULL-EW-'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.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Electrician J. H. Burke was improperly compensated for services which he rendered on March 3rd and 4th, 1954.

2. That accordingly the Carrier be ordered to additionally compensate the aforesaid employe the difference between the compensation he was paid for the hours of 7:30 A. M. March 3rd to 5:30 A. M. March 4th, 1954, and what he was entitled to be paid at the applicable rates.

EMPLOYEES' STATEMENT OF FACTS: Electrician J. H. Burke, hereinafter referred to as the claimant, is employed as an electrician at New Orleans District. His regular bulletined hours were 7:30 A. M. to 4:00 P. M. on March 3, 1954.

On March 3, 1954, the claimant worked his regular bulletined hours from 7:30 A. M. to 4:00 P. M. The Carrier then assigned him to work from 11:30 P. M. March 3 to 5:30 A. M. March 4, 1954.

The carrier compensated the claimant for the hours as follows:

March 3—7:30 A. M. to 4:00 P. M.—straight time.

March 3—11:30 P. M. to March 4—5:30 A. M.—time and one-half rate.

The dispute was handled with carrier officials designated to handle such affairs who all declined to adjust the matter.

The agreement effective July 1, 1948, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the carrier in the instant dispute violated the provisions of the current agreement, as they should have paid the claimant as follows:

intermittent as well as continuous service. We accept this construction, under the circumstances here shown, rather than the literal meaning of the rule. An affirmative award is required."

CONCLUSION

In this ex parte submission the company has shown that it properly has interpreted the provisions of Rule 34 of the agreement. Further, the company has shown that prior to the rendering of Award 1671 by the Second Division, National Railroad Adjustment Board, the organization put itself on record as interpreting and applying the provisions of Rule 34 in the same manner as the company is in the instant case. Finally, the company has shown that Award 1671 supports the company in this dispute in that it states that the 16:00 hour provisions of the overtime rules involved relate to intermittent as well as continuous service, a condition which clearly contemplates that only hours worked shall constitute the 16:00 hour period beyond which double time shall begin. The organization's claim that Burke is entitled to additional compensation for work performed by him on March 3-4, 1954, is without merit and should 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.

This submission concerns a single claimant, an electrician employed in the New Orleans District. His regularly assigned hours were 7:30 A. M. to 4 P. M. and, after working this shift on March 3, 1954, he was recalled at 11:30 P. M. of that day and worked until 5:30 A. M. the following day. For the additional service he was compensated at the time and one-half rate. For reason that the call-back occurred sixteen hours after the starting time of his regular assignment, claimant contends that he should have been paid at the double time rate for the time worked outside of his regular shift.

This submission raises the indential issue as that involved in Docket 1850, subject of Award 1974, decided this date. The opinion expressed therein is controlling and for sake of brevity, is adopted herein by reference.

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 June, 1955.