

Award No. 1977

Docket No. 1852

2-PULL-CM-'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 EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current Agreement, Upholsterers G. Graft, F. Habisreitingner and A. Dwyer were improperly compensated for their services which were rendered on May 20 and 21, 1954;
2. That accordingly the Carrier be ordered to additionally compensate the aforesaid employes the difference between the compensation that they were paid for the hours of 8:30 A. M., May 20th to 3:00 A. M., May 21, 1954, and what were entitled to be paid at the applicable rates of pay.

EMPLOYES' STATEMENT OF FACTS: Upholsterers G. Graft, F. Habisreitingner and A. Dwyer, hereinafter referred to as the claimants, are regularly assigned to the 8:30 A. M. to 5:00 P. M. Shift at New Orleans, Louisiana. After the claimants completed their regular tour of duty 8:30 A. M. to 5:00 P. M. on May 20, 1954, they were called in at 7:00 P. M. until 3:00 A. M. the following day, or May 21, 1954 at which time the foreman released the claimants.

The carrier compensated the claimants as follows:

8:30 A. M. to 5:00 P. M.—8 hours straight time rate, May 20, 1954.

7:00 P. M. to 3:00 A. M.—8 hours at time and one-half rate, May 20/21, 1954.

The agreement effective June 16, 1951, as subsequently amended, is controlling.

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

May 20—8:30 A. M. to 5:00 P. M.—8 hours at straight time
May 20/21—7:00 P. M. to 12:30 A. M.—5-½ hours at time and
one half
May 21—12:30 A. M. to 3:00 A. M.—2-½ hours at double time

Under **OPINION OF BOARD** in Award 1867, the Board held the company's position that the employee involved was entitled to double time beginning at 6:00 P. M., July 10, 1953 (after 16 hours of work performed, not clock hours as claimed by the organization), as follows:

"In our judgment, the history of the type of provision here in question, and the present Rule 34 considered in conjunction with related provisions of the Agreement, require the finding that an employee is entitled to be paid at the double time rate only for work performed beyond 16 hours of service, computed from the starting time of his regular shift. It follows that claimant should have been paid at the double time rate beginning as of 6:00 P. M. on July 10, 1953, or a total of 27 hours at double time for the period in question."

CONCLUSION

In this ex parte submission the company has shown that it has properly interpreted the provisions of Rule 8 of the agreement. Further, the company has shown that Awards 1671 and 1867 support the company's position in the matter of interpreting and applying the provisions of Rule 8, a condition which clearly contemplates that only hours worked shall constitute the 16-hour period beyond which double time shall begin. Finally, the company has shown that Awards 1671 and 1867 support the company in this dispute in that they establish that the 16-hour provisions of the overtime rules relate to intermittent as well as continuous service and that such interpretation is traditional. The organization's claim that the upholsterers involved in this dispute are entitled to double time beginning 12:30 A. M., May 21, 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 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.

Claimants, members of the Carmen's Organization, were regularly assigned and worked the 8:30 A. M. to 5:00 P. M., shift on May 20, 1954. They were then called back at 7:00 P. M. the same date and worked until 3:00 A. M. the next morning. The organization excepts to the company's method of computing compensation under the double time rule of the agreement, Rule 8, contending that time off between 5:00 P. M. and 7:00 P. M., should have been included in the sixteen hour period necessary to bring the double time rule into operation. The company's position is that the sixteen hour period relates only to working time.

This submission raises the identical issue as that presented in Docket 1850, subject of Award 1974, decided this date. The opinion expressed there is controlling here, hence is adopted 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.