Award No. 2121
Docket No. 1939
2-A&S-TWUofA, CIO-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when the award was rendered.

PARTIES TO DISPUTE:

RAILROAD DIVISION, TRANSPORT WORKERS UNION OF AMERICA, CIO

ALIQUIPPA AND SOUTHERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That it is in violation of the current agreement to pay Mr. William B. Mullins the pro-rata rate of pay for work performed in excess of eight (8) hours in a twenty-four (24) hour period.

That Mr. William B. Mullins be reimbursed the difference in pay between the pro-rata rate and the overtime rate of pay for the actual time worked in this claim.

Dates involved in this claim are August 30, 1954 and September 1, 1954.

EMPLOYES' STATEMENT OF FACTS: That Mr. William B. Mullins bid and was awarded and held the position of Extra Car Repairman at the time that this claim was filed.

That Mr. William B. Mullins was paid the pro-rata rate of Car Repairman for work performed, but under the current agreement he was entitled to the overtime rate.

That the Railroad Division, Transport Workers Union of America, CIO has a collective bargaining agreement, effective December 31, 1946, with the Aliquippa and Southern Railroad Company, covering Maintenance of Equipment Department, copies of which are on file with the Board, and is by reference hereto, made a part of this Statement of Facts.

That Mr. William B. Mullins is a Maintenance of Equipment employe and that he held the position of Extra Car Repairman at the time this claim was filed.

POSITION OF EMPLOYES: It is respectfully submitted that the overtime rate of pay must accrue to the employe under Article 2, sections (a) and (b) of the current agreement which reads as follows:

volved in that position even though his laborer seniority by itself (if he had same) would not entitle him to do so.)

Until the present claims were presented by Mr. Mullins there had been no objection on the part of employes to the practice, which was put into effect with the full approval of the organization. It is true, however, that they have declined to formalize the arrangement herein referred to by a written agreement.

In the interest of accuracy, the carrier points out that Mullins is claiming eight (8) hours pay at the overtime rate for August 30, 1954, when he actually worked only seven hours, between 5:00 P. M. and Midnight. Under Article 1, Sections (b) and (d), he is entitled to be paid only for actual time worked. Therefore, in the event the claim should be sustained, it should be only for seven hours on August 30, 1954.

CONCLUSION

The carrier has shown that Mullins was correctly paid at the pro-rata rate for the time worked as car repairman and that he is not entitled to the compensation claimed. It is therefore respectfully submitted that the claim is not supported by the applicable agreement 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 this dispute were given due notice of hearing thereon.

The carrier is a terminal switching railroad located at Aliquippa, Pennsylvania. At its North Car Shop it has regular car repairmen assigned both in the shop and in the yard. Prior to 1947, senior laborers or helpers were used in filling temporary vacancies on regular carmen positions. This method was not satisfactory and, as a result of the dissatisfaction, an oral agreement was made whereby laborers and helpers desiring to work as extra car repairmen would be listed as Extra Car Repairmen and be assigned and work when it arose. The oral arrangement also provided that such Extra Car Repairmen would report regularly and if there were no vacancies among the car repairmen, they would work as laborers.

The instant dispute arose from the following Statement of Facts: Claimant reported for work on the two days in question and there being no vacancies among the car repairmen, he worked his eight hours as a laborer. At 3:30 P. M., the beginning of a subsequent shift, a vacancy among the car repairmen occurred and claimant was used 3:30 P. M. to 12:00 Midnight as a car repairman. Claimant contends that he was entitled to the time and one-half rate for the second eight hours which he worked as a car repairman. The organization takes the position that certain oral agreements were entered into but that the rate of pay when an employe worked his regular shift as a laborer and a second shift as an extra car repairman was not a subject of such oral agreements.

The carrier contends that when an employe works eight hours in one craft or class, and then works in another during the same work day, the employe gains no right to overtime pay. The agreement rights of employes are segregated into crafts and classes and the status under one craft or class cannot be given any effect upon his status in another. Awards 3674, 5629, Third Division. If claimant had worked as a car repairman on his first shift

and been called as an extra car repairman on one of the two remaining shifts, overtime pay would be earned on the second shift worked. The same would be true if claimant worked two shifts as a laborer. But when he works one shift in one class and a second shift in another class under a different seniority roster, he cannot use his work in the former to augment his rate of pay in the latter in the absence of a specific agreement provision to that effect. A denial award is required.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1956.