

Award No. 2570
Docket No. 2442
2-PRR-MA-'57

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Curtis G. Shake when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYES'
DEPARTMENT, AFL (Machinists)**

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under current agreement Machinist G. H. Bonnell was unjustly dealt with when the Carrier assigned a junior employee from another trick on an overtime basis to perform overtime work on Bonnell's regular tour of duty, while he was off on one of his rest days, on January 22, 1955.

2. That accordingly the Carrier be ordered to compensate G. H. Bonnell for eight (8) hours at the punitive "E" Grade rate of pay for the above mentioned date.

EMPLOYES' STATEMENT OF FACTS: Machinist G. H. Bonnell, hereinafter referred to as the claimant, is employed by The Pennsylvania Railroad Company, hereinafter referred to as the carrier, in the New York Service Plant, Maintenance of Equipment Department, New York City, N.Y., and at the time of this instant claim he was regularly assigned to the sub-department elevator and escalator repairs on the 11:59 P.M. to 7:59 A.M. tour of duty with Saturday and Sunday as rest days.

Peter Carlitski is a regularly assigned relief machinist at New York Service Plant, tour of duty—Saturday and Sunday 7:59 A.M. to 3:59 P.M., Monday 3:59 P.M. to 11:59 P.M., Tuesday and Wednesday 11:59 P.M. to 7:59 A.M., rest days Thursday and Friday, sub-department elevator and escalator repairs.

On Saturday, January 22, 1955, one of the claimant's regularly assigned rest days, a vacancy occurred on the 11:59 P.M. to 7:59 A.M. machinist posi-

3. If helper assignments cannot be filled in accordance with Item No. 1, employes from other crafts covered by this Agreement at the location and working on the shift may be used.

4. In the even the position or vacancy cannot be filled in accordance with the foregoing procedure, employes from lower crafts at the location and working on the shift may be used.

(b) Employes accepting positions on another shift in the exercise of their seniority under the foregoing procedure will do so without expense to the Company."

The carrier also has the unquestioned right to establish vacation relief positions to fill the positions of vacationing employes at the straight time rate.

The carrier understands that the employes agree that this claim in no way attempts to limit the carrier's right to fill vacation, or other, vacancies at straight time rates when it has the right to do so under the provisions of Rule 2-A-5 or any other provision of the applicable agreement, or by establishing vacation relief positions. The present claim arose only because none of the alternatives open to the carrier in the filling of vacancies at the straight time rate could be used in this case. It is only in such circumstances that the overtime agreement is applicable and no right to work overtime arises in any situation where the carrier can properly perform the work at straight time rates or can leave it unperformed.

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 this dispute involve herein.

The parties to said dispute were given due notice of hearing thereon.

Claimant was regularly assigned to the position identified in the submission of the parties from 11:59 P.M. to 7:59 A.M., with Saturdays and Sundays as his rest days. Claimant's position did not relieve nor was it relieved by another position.

Saturday, January 22, 1955, was one of the Claimant's rest days and he was not on duty. A vacancy occurred on the 11:59 P.M. to 7:59 A.M. tour of another position in the same department in which Claimant was employed on account of the regular occupant being on vacation. Carrier called a machinist who was junior to the Claimant and since he had already worked his regular tour of duty on that day he was compensated at the overtime rate.

The Organization asserts that the Carrier violated the Local Overtime Agreement, effective January 16, 1947, by calling a mechanic who was junior to the Claimant and it demands that he be compensated for eight hours at the punitive rate.

While admitting the Local Overtime Agreement, the Carrier says that there has been a well-established practice that overtime work on so-called "sheet jobs" would be offered first to employes holding "sheet jobs." It is asserted that since the work here involved was "sheet job" work its action in the instant case was in accord with the established practice and that the claim is without merit. A "sheet job" is defined as a term used in the New York Service Plant to identify regularly assigned positions for handling breakdown or trouble calls as they occur on the Carrier's equipment and facilities in the Pennsylvania Station at New York. Apparently the designation had its origin in the practice of entering calls for such service on a sheet maintained for that purpose.

The Local Overtime Agreement provides that, "Employes in each sub-department will be used for Sunday, Holiday and overtime work in his own sub-department," and that, "When employes in the sub-department are not available for Sunday, Holiday or overtime work, the qualified employes will be used from the Craft Roster according to Seniority." Said Agreement enumerates by title the various sub-departments in the Carrier's Maintenance of Equipment Department but "sheet jobs" are not listed therein.

There is nothing in the Agreement that would preclude the establishment of such a practice or understanding as the Carrier asserts and the dispute must be resolved by our determination as to whether a preponderance of the evidence contained in the record supports the Carrier's contention. We believe that it does. The facts agreed to by the parties as a result of a joint investigation on the property support our conclusion.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 17th day of July, 1957.