

Award No. 2684

Docket No. 2581

2-LI-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 156, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

THE LONG ISLAND RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(1) That the Carrier violated the current agreement by improperly compensating the Electrical Workers of the M of W Department for service rendered in addition to their regular work day hours on Oct. 3, 1955.

(2) That accordingly the Carrier be ordered to additionally compensate the Electrical Workers of the M of W Department for said service rendered in accordance with the current agreement.

EMPLOYEES' STATEMENT OF FACTS: The electrical workers employed in the Maintenance of Way Department, herein after referred to as the claimants, of the Long Island Railroad Company, hereinafter referred to as the carrier, are required to maintain official time tables governing the operation of trains on the carrier's property.

On Oct. 3, 1955, the claimants were each issued a set of General Order #216 stickers and instructed to insert same in their official time tables prior to the regular starting time for their day's work.

"A set of General Order #216 stickers consisted of 32 separate sheets or pages, which are available should the Board desire to see them. Two sheets contained instructions signed by Superintendent R. D. Spore, which included orders to make certain corrections in ink on 29 pages of the time table. Thirty pages covered changes in schedule of trains, etc. The sheets had printed instructions, train schedules, etc., on one side and were covered with gum or glue for pasting in the official time table, on the opposite side."

The carrier compensated the claimants for 15 minutes at the pro rata hourly rate on Oct. 3, 1955, in addition to the regular 8 hours at pro rata hourly rate.

Submitted herewith and identified as carrier's Exhibit D, is a copy of the superintendent's notice of September 13, 1955, providing for the payment of the aforesaid allowance to train and engine crews.

POSITION OF CARRIER: Electricians employed in the electric traction department, as well as all other employees required to maintain standard employees' time tables prior to the instant protest by the International Brotherhood of Electrical Workers, inserted general orders in their time tables as necessary without protest or claim. There is no rule in the applicable rules and working conditions agreement which provides for the payment of an allowance for the insertion of general orders in time tables. In fact, the claimants herein inserted General Order No. 214, consisting of thirty-three (33) pages, on September 7, 1955, only twenty-one (21) days prior to the issuance of General Order No. 216 without protest or claim.

This fact, together with the established practice of many years standing, conclusively shows that electricians in the electric traction department have never considered the insertion of general orders in their time tables as "service" within the meaning of that term as employed in Rule No. 5 of the applicable rules and working conditions agreement.

In actuality, the instant claim is merely a thinly veiled effort by the brotherhood to expand the existing rule to provide for the payment alleged to be due in the instant case. In fact, the brotherhood, by its action, is merely taking advantage of the carrier's generosity and sense of equity since, as we have previously shown, the carrier was under no obligation to make any allowance to the claimants herein for the insertion of General Order No. 216 in their time tables.

In the handling on the property, the brotherhood argued—

"The fact that Management has compensated the Electricians for fifteen (15) minutes straight time they have recognized this as service rendered. The carrier, therefore, should compensate the Electricians for such service rendered as stipulated in Rule #5 of the Working Agreement."

However, there is no basis for such a contention since the mere payment of the fifteen (15) minute allowance was in no sense a recognition of the fact that the insertion of the general orders in question constituted "service" within the meaning of the rule.

The carrier's action, as previously stated, was merely a gesture to treat all employees involved on the same basis, that is to say, the carrier gave like treatment not only to those to whom they were obligated under the provisions of the agreement (the trainmen) but to all other employees similarly affected as well.

This gratuitous action on the part of the carrier in no way whatsoever changed the provisions of Rule 5 or the practice we previously established thereunder.

For the reasons stated above, there is no basis for the instant claim and, accordingly, it should be declined.

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.

It is interesting to note that employes' Exhibit A, attached to their rebuttal, which is dated June 17, 1957 and is signed by a number of M of W Electricians, states that general order entries in time tables are usually made during the regular work day. It does not specifically mention General Order No. 216, effective October 3, 1955, which was distributed to the employes on September 28, 1955. There is no evidence that such usual practice was not followed thereon, nor that any employe was required to or actually did work on October 3rd, prior to his regular starting time, inserting such order in his time table.

It fairly appears that the 15 minutes compensation allowed in connection therewith was not for work performed but an arbitrary agreed upon with the Trainmen, because it was the second general order within 30 days contrary to an agreement with them, which the carrier voluntarily allowed to all employes who are required to keep time tables, so that all might receive equal treatment. Upon this record there is no basis for the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1957.