

Award No. 3019
Docket No. 2863
2-WAB-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

WABASH RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement carman M. O. Lowe was improperly compensated when he was required to work sixteen (16) consecutive hours on September 10, 1956.

2. That accordingly the carrier be ordered to additionally compensate the afore-mentioned carman in the amount of four (4) hours' pay at straight time rate of pay for September 10, 1956.

EMPLOYEES' STATEMENT OF FACTS: Carman M. O. Lowe, herein-after referred to as the claimant, was employed as such by the carrier at Decatur, Illinois, and his assigned hours was 11:00 P.M. to 7:00 A.M., Friday through Tuesday, with Wednesday and Thursday rest days.

The claimant reported for work as usual at 11:00 P. M. September 9, 1956 and worked his regular shift. About 7:00 A.M. September 10, 1956, Mr. A. Crawley, general foreman diesel shop, instructed the claimant to take time for lunch and continue working on the 7:00 A.M. to 3:00 P.M. shift and assume the assignment of Carman W. Wall for three (3) weeks, on account of Mr. Wall being on vacation, Mr. Wall's assignment being 7:00 A.M. to 3:00 P.M. Monday through Friday with Saturday and Sunday rest days. The claimant made claim for time and one-half rate of pay for eight (8) hours 7:00 A.M. to 3:00 P.M. September 10, 1956 and was notified by General Foreman Crawley that he would be allowed eight (8) hours' pay at straight time rate.

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.

The claim for four hours' additional pay is based on the fact that Claimant Lowe worked his regular assignment from 11:00 to 7:00, doubled over until 3:00 P.M., to fill the regular assignment of Carman Wall, who took his vacation. The brotherhood urges that failure to pay time and one-half for the double over violates Rules 3, 4, and 10.

The carrier defends its denial of overtime pay on the interpretation of Referee Morse who handled the vacation agreement originally. The interpretation was based on a submission and is a final and binding award which has since been specifically incorporated into the agreement between the parties.

After considering the split of authority on this question, we conclude that the weight of precedent and reason require a denial of the claim.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November, 1958.

DISSENT OF LABOR MEMBERS TO AWARD 3019

We are constrained to dissent from the instant findings and award. Had the original award (1806) rendered on this property been used as a precedent the claim would have been sustained as reason requires.

/s/ James B. Zink
/s/ R. W. Blake
/s/ Charles E. Goodlin
/s/ T. E. Losey
/s/ Edward W. Wiesner