

Award No. 3112

Docket No. 2889

2-AT&SF-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY, THE**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, upgraded Carman Salvador Munoz was denied his contractual rights and forced by the Carrier to accept a position which should have been filled by a junior employe on June 8, 1956 at Bakersfield, California.

2. That accordingly the Carrier be ordered to additionally compensate this employe at the overtime rate for each Saturday and Sunday, four (4) hours for each change of shift, and that he be additionally compensated for any overtime that he is deprived of by being assigned, and the claim to be continuous and retroactive to June 8, 1956.

EMPLOYEES' STATEMENT OF FACTS: Salvador Munoz, hereinafter referred to as the claimant was regularly employed as an upgraded carman by The Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier, at Bakersfield, California. The claimant was assigned to the working hours of 7:30 A. M. to 4:00 P. M. on the repair tracks, Monday through Friday, rest days of Saturday and Sunday.

On or about June 2, 1956 a bulletin was posted advertising a position as a trainyard car inspector with working hours of 11:00 P. M. to 7:00 A. M., Friday through Tuesday, rest days Wednesday and Thursday. Upon the closing of the bulletin, no bids had been received, and local management assigned the claimant to the advertised position, with the result that the claimant was removed from his regular repair track position and forced to accept a position

Finally, the employes' citation of Section (i) of Appendix "A" is not understood since there is nothing contained therein which has the slightest bearing on this claim.

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.

Parties to said dispute were given due notice of hearing thereon.

Rule 16(c) of the applicable agreement governing the subject of filling vacancies provides in part as follows: "If no bids are received, the position will be filled by assigning the junior qualified employe of his craft". No bids for the car inspector vacancy in question having been received, the evidence of record warranted the carrier's determination that employes junior to claimant were not qualified to fill it, and the instant claim therefore lacks merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of February, 1959.