

Award No. 4246
Docket No. 4206
2-AT&SF-EW-'63

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. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Electrical Workers)**

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Western Lines)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the Current Agreement, Division Lineman R. H. Hendon, was unjustly dealt with and the provisions of the Current Agreement were violated when the Carrier, assigned others than communications Department Electrical Workers to install telephones between Lyn and Raton, New Mexico, mile 652.

2. That accordingly, the Carrier be ordered to compensate Mr. R. H. Hendon as follows: One and one-half (1½) times his regular rate of pay for eighty (80) hours.

EMPLOYEES' STATEMENT OF FACTS: Communications Department Division Lineman, R. H. Hendon, hereinafter referred to as the claimant, is a monthly rated employe regularly employed by the Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier, in the Communications Department, Western Lines, with headquarters at La Junta, Colorado.

The claimant is one of a number of electrical workers employed in the carrier's communications department as division linemen, assigned to a specific territory to maintain, install, repair and clear trouble on their (the carrier's) communications system network. Electrical workers who are division linemen of the communications department including the claimant are assigned a work week of Monday thru Friday, with Saturday and Sunday rest days, however, Saturday these employes are required to perform such emergency work as may be necessary for the faithful operation of the communications equipment within their territory.

The carrier further asserts that the employes' claim is excessive in that it seeks payment at the time and one-half rate of pay contrary to the well known and firmly established principle of this and other Divisions of the National Railroad Adjustment Board that the proper compensation for work not performed is the pro rata rate.

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In conclusion, the carrier states that the employes' claim in the instant dispute should be either dismissed or denied for the reasons expressed herein.

The carrier is uninformed as to the arguments the brotherhood may advance in its ex parte submission, and accordingly reserves the right to submit such additional facts, evidence or argument as it may conclude are necessary in reply to the brotherhood's ex parte submission or any subsequent oral argument or briefs presented by the brotherhood in this dispute.

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.

This claim involves the same parties, (other than individual claimants), Rules and substantially the same facts as were before this Board in its Award No. 4157, (Docket No. 4031). No persuasive reason has been advanced why that Award should not be regarded as a proper and binding precedent.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June, 1963.