

Award No. 4274

Docket No. 4085

2-GN-CM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the current agreement was violated when the Carrier failed to compensate Carmen Douglas Bensley and Antonio Picos for time waiting to return to home point on October 6, 1960.

2. That accordingly, the Carrier be ordered to compensate Carmen Picos and Bensley for fourteen and one-half (14½) hours for October 6, 1960 each at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Bensley and Picos, hereinafter referred to as the claimants, at Great Falls, Montana with assigned hours of duty from 7:30 A. M. to 4 P. M. — thirty minutes for lunch.

On October 6, 1960, claimants were instructed by their supervisor to proceed by company highway truck to Judith Gap, Montana to rewheel car CB&Q 10540 and upon completion of such work assignment that if time did not permit their return to home point at Great Falls by their quitting time, they were to tie up at Harlowton, Montana until 7:30 A. M. the following morning and return to Great Falls during the hours of their assignment at home point.

The duty assigned to be performed at Judith Gap was completed at 4 P. M. In conformity with instructions of their foreman, claimants proceeded to Harlowton where they tied up at 5 P. M., remaining thereat over night until 7:30 A. M., October 7, 1960 to begin their return to Great Falls.

Carrier has refused to compensate the claimants for the time spent in waiting at Harlowton from 5 P. M., October 6, 1960 to 7:30 A. M., October 7, 1960, a period of fourteen and one-half (14½) hours.

This dispute has been handled with all carrier officers designated to handle such matters, all of whom have declined to adjust it.

3. Rule 22(b) clearly allows employes on ordinary road trips to be tied up for a non-compensated rest period of more than five hours at any time "during the time on the road."

4. The lack of limitations on the maximum length of the non-compensated rest period and the time it may be assigned under Rule 22(b) contrast sharply with the more restrictive provisions for assigning rest periods to wrecking service employes under Rule 22(c).

5. The claimants were tied up for overnight rest periods under Rule 22(b) in conformance with the carrier's responsibility and duty to operate its business in a safe, efficient and economical manner.

6. The organization's contentions that rest periods must be given before freight car repairs are completed and then only in the employe's own discretion without any regard for the safety and economy of operations, are obviously illogical, absurd and wholly unsupported by any language in the agreement.

7. The carrier's interpretation of Rules 22(a) and 22(b) is supported by past practice and the failure of the organization to appeal the decisions of the carrier which rejected previous attempts by this organization to change the application of those rules.

8. Award No. 1637 of this Board, involving rules, facts and issues directly in point, supports the carrier's position and should be followed in this case.

For the foregoing reasons, the carrier respectfully requests that the claims of the employes be denied.

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.

The parties to this dispute are the same as in Award No. 4269, and the facts are essentially the same as there.

The submissions contains the same type of evidence and arguments, and our Award No. 4269 governs here and the claim must be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1963.

**DISSENT OF LABOR MEMBERS TO AWARDS
4270 THROUGH 4275, INCLUSIVE**

The holding of the majority in the above enumerated awards is essentially the same as in Award 4269; therefore, our dissent to that award applies to the present awards and the claims in each instance should have been sustained.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink