

**Award No. 4537**  
**Docket No. 4303**  
**2-CRI&P-CM-'64**

**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.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

**CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

(1) That under the current agreement the Carrier improperly dealt with and thereby damaged Carman R. Mass when on Sunday, September 10, 1961 Carman L. L. Riddle was arbitrarily assigned to work six (6) hours at the time and one-half rate.

(2) That accordingly the Carrier be ordered to additionally compensate Carman R. Mass six (6) hours pay at the time and one-half rate.

**EMPLOYEES' STATEMENT OF FACTS:** The Chicago, Rock Island & Pacific Railroad Company hereinafter referred to as the carrier maintains a car shop at Council Bluffs, Iowa.

On September 10, 1961, a Sunday the carrier arbitrarily assigned Carman L. L. Riddle to go to Hillis, Iowa to operate a cutting torch to cut off the traction pinion gear on Rock Island Engine 129 set out at that point.

The carrier made no attempt to contact the local committee to secure the proper employe for this overtime.

On the day in question R. Mass, hereinafter referred to as the claimant was available and willing to perform the service which L. L. Riddle performed.

This dispute has been handled with all officers of the carrier designated to handle such disputes, including the highest designated officer of the carrier, all of whom have declined to make satisfactory adjustment.

to him — but who simply claims it because he happens to be first out on the overtime board of a craft who has no rights to the work at all.

In the instant claim this carman worked overtime in work covered by the classification of work rule of another craft. Who then, if anyone, is entitled to make a claim. It would be the man first out on the overtime board of the craft whose classification of work rule was violated — which craft is as subject to Rule 10 as the carmen. Such a claim is not before this Board.

So the board will be perfectly clear take this example:

#### OVERTIME BOARDS

	<b>CARMEN (Stand to protect work under Rule 110)</b>	<b>MACHINISTS (Stand to protect work under Rule 53)</b>
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1.	A	X
2.	B	Y
3.	C	Z

C performs work on overtime which should be protected by Machinists under Rule 53, X stood for the work not A. If anyone would have a valid claim it would be X. A would have no claim whatsoever.

The organization have filed their claims based on rights under classification of work rules for years and years, without exception, to our knowledge and the rules and practice under them totally invalidate this claim.

While the carrier cannot visualize this claim being sustained we do want to point out to the board that it has consistently held in its awards that proper payment for time not worked is pro-rata rate.

The claim has absolutely no basis, the claimant has been in no way injured and claim is improper. The claim should 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 waived right of appearance at hearing thereon.

On September 10, 1961, Carman Riddle was called by the Carrier to accompany Machinist Wohlers to perform the work of cutting a pinion gear from a traction motor of Diesel 129 which had been set out at Hillis, Iowa. This was a rest day for both Carman Riddle and the Claimant.

Claimant was first out on the Carmen's overtime board at Council Bluffs, Iowa for that day, and alleges a violation of the controlling agreement Rule 10, of which reads in part as follows:

“\* \* \*

“Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime equally. The distribution of overtime will be handled by local committee of the craft.”

It is Carrier's position that this was not Carmen's work, and that Carman Riddle was called because he held a welder's position in the car department and was the only man at Council Bluffs qualified to do this type of torch work.

The Organization, agreeing that this may not have been Carmen's work, nevertheless maintains that once the Carrier decided to call a Carman, it was bound to follow the applicable rule and contact the local Carmen's committee to ascertain who was first out for the overtime work. The Organization also denies that claimant was unqualified to perform this type work.

Whether Carrier erred in calling a Carman for this work is not the question to be determined. But having embarked upon the call for a Carman, it was incumbent upon the Carrier to adhere to Rule 10 to determine which member of the craft was first out on the overtime board. Failure to do so resulted in a violation of the Agreement.

#### AWARD

Claim 1: Sustained.

Claim 2: Sustained, except that the compensation shall be at the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of June, 1964.