

Award No. 4540
Docket No. 4314
2-GN-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.

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 Antonio Pioscos and Philip Frediani for time waiting to return to home point on March 13, 1961.

2. That accordingly, the Carrier be ordered to compensate Carmen Antonio Pioscos and Philip Frediani fifteen (15) hours at time and one-half rate for March 13, 1961.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, employs Carmen Antonio Pioscos and Philip Frediani, 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 March 13, 1961, claimants were instructed by their supervisor to proceed by company highway truck to Hedgesville, Montana to rewheel GN X3160 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 proceed to Harlowton, remain there for the night and the following morning return to Great Falls, during their regular working hours.

The duty assigned to be performed at Hedgesville was completed by the claimants at 3:30 P. M., thereby precluding their return to Great Falls by 4 P. M. In conformity with instructions of their foreman, claimants proceeded to Harlowton, arriving there at 4:25 P. M., and remained thereat overnight — waiting until 7:30 A. M., March 14, 1961 to begin their return to Great Falls.

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 employees 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 employees 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.

Claimants are Carmen employed by Carrier at Great Falls, Montana, with a regular assignment of 7:30 A. M. to 4:00 P. M.

On March 13, 1961, Claimants were instructed to proceed by company truck to Hedgesville, Montana to rewheel a car. They were further instructed that if they could not return to Great Falls by their quitting time, to proceed to Harlowtown and tie up for the night and return to Great Falls during their working hours the following day.

Claimants finished their work at Hedgesville at 3:30 P. M., and proceeded to Harlowtown for the night, leaving there for Great Falls the following morning at 7:30 A. M.

Rule 22 (a) of the controlling agreement reads as follows:

"Other than provided in paragraph (b) of this rule, an employee regularly assigned to work at a shop, enginehouse, repair track of inspection point, when called for emergency road work away from such point, will be paid for all time from time ordered to leave home station until his return as follows: for all time waiting or travelling, straight time rate during home point working hours, time and one-half during home point overtime hours; for all time working, straight time rate during home point working hours, overtime rate as per Rule 17 during home point overtime hours."

Rule 22 (b) reads in part as follows:

"If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) or more hours, such relief

will not be paid for; provided that, in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from working his regular daily hours at home station. * * *.”

It is Carrier's position that the time claimed by the Employees herein was time relieved from duty within the meaning of Rule 22(b).

It is the Employees' contention that the time during which they were tied up at Harlowtown was "waiting time" within the terms of Rule 22 (a), since the work which they were sent out to perform had been completed, and thus this could not be considered as time relieved from duty within the meaning of Rule 22 (b).

We have had occasion to consider this identical situation on this same Carrier and with the same organization in prior Awards. (See our Awards numbered 4269, 4270, 4271, 4272, 4273, 4275, 4382 and 4383.)

Because of dissenting opinions in the above named Awards, we have again carefully examined them and the pertinent Rules, as well as our Award No. 1637.

In Award 1637 we said:

"We quite agree that if an employee is held over after the work is completed that it will be construed as waiting time. Awards 1028, 874. But where rest of five hours or more can be had after leaving and before returning to his home point, outside of assigned hours and waiting and travelling time, the exception applies and the employees are not entitled to pay for such time under the rule. Awards 1429, 1557. The terminal points of the road emergency service covered by the rule are the time of leaving and the time of returning to the home points * * *." (Emphasis supplied.)

We adhere to our former interpretations, and accordingly hold that the time spent at Harlowtown was not waiting time as contended for by Claimants, but was time relieved from duty within the meaning of Rule 22 (b).

AWARD

Claim 1: Overruled.

Claim 2: Denied.

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.