



Award No. 4758

Docket No. 4712

2-ACL-EW-'65

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C.I.O. (Electrical Workers)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

That in accordance with the applicable agreements and understandings, Telephone Maintainer F. Bishop was improperly compensated for service performed on May 13 and 20, 1963, respectively.

That accordingly the Carrier be ordered to additionally compensate Maintainer Bishop in the amount of five (5) hours at the overtime rate for each of the above named dates, total time ten (10) hours.

EMPLOYEES' STATEMENT OF FACTS: Telephone Maintainer F. Bishop, hereinafter referred to as the claimant, is employed by the Atlantic Coast Line Railroad, hereinafter referred to as the carrier, in its communication department.

On May 13 and 20, 1963, respectively, the claimant, after his regular tour of duty in Jacksonville, Florida, was ordered to board Train No. 92 at 5:55 p.m. for Florence, South Carolina. Arrival time in Florence is 11:50 p.m.

Claimant filed claim for five hours at the overtime rate for each of the days traveled, May 13 and May 20, 1963, which is in accordance with letter from Mr. W. S. Baker, assistant vice president, addressed to former general chairman J. N. Corbin.

This claim was disapproved by his supervisor.

It will be noted that the claimant deducted from his overtime claim one hour from the actual time in travel which was for his meal period.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has declined to adjust it on two separate occasions.

The agreement, effective August 15, 1944, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: Rule 3(d) of the agreement reads as follows:

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.

The claimant held a monthly rate position and the claim is for time spent traveling in Pullman accommodations on a regularly scheduled work day. Rule 3 (b) provides that "the monthly rate will cover all time whether working, waiting or traveling", and also that actual expenses will be allowed when away from home station.

It appears that since 1942 the Organization has tried to negotiate a rule for daily overtime pay for these employes without success and that it is now seeking to achieve here what it has been unable to obtain in its bargaining efforts. To grant such a request is beyond the power and function of this Board.

Under the circumstances shown and absent a daily overtime rule for monthly rate positions, the claim is not sustainable.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 24th day of September, 1965.