

Award No. 5490

Docket No. 5185

2-C&O-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Southern Region)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That Carrier violated the current controlling Agreement and deprived Carman E. E. Vanderhoof his right to service, by not permitting him to work his regular assignment on the shop track on the Thanksgiving holiday, November 26, 1964.

2. That accordingly, the Carrier be ordered to additionally compensate Carman Vanderhoof eight (8) hours at the Carmen's applicable time and one-half rate for said violation.

EMPLOYEES' STATEMENT OF FACTS: Carman E. E. Vanderhoof, hereinafter referred to as the Claimant, is regularly employed as such by the Chesapeake and Ohio Railway Company, hereinafter referred to as the Carrier, in its yards at Russell, Kentucky with a workweek Monday through Friday, rest days Saturday and Sunday on the first shift, 7:00 A. M. to 3:30 P. M. on the Shop Track.

The Carrier owns and operates a large facility at Russell, Kentucky known as the Russell Yards, which consist of a large Transportation Yard and Repair Track. Trains are made up, switched, cars are repaired and a large number of carmen and carmen helpers are employed holding seniority under the provisions of Rule 31 of the Shop Crafts Agreement and are assigned twenty-four hours per day, seven days each week inspecting, servicing trains and repairing cars.

The Carrier's Shop Track at Russell is assigned to a seven day operation and when the force is reduced on holidays the reduction is made in seniority order. The employees were notified by bulletin that certain employees would not perform service on the Thanksgiving-Holiday, November 26, 1964. This notice included the Claimant, said notice attached hereto as Exhibit A.

All data herein submitted in support of Carrier's position has been presented to the Employees or duly authorized representatives thereof and made a part of the question in 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 employee or employees involved in this dispute are respectively carrier and employee 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.

On November 26, 1964, the carrier selected an employee from the transportation yard to work overtime because of the utilization elsewhere of an employee whose regular assignment included work at both the transportation yard and the repair track. The employees claim that this overtime should have been given to an employee from the repair track on the ground that the absent employee's regular assignment was at the repair track.

The transportation yard is manned around the clock. The repair track is not. Under the agreement, a shift can be interrupted for a non-paid lunch break, only where less than three shifts are employed. Thus, a shift at the transportation yard is from 7:00 A. M. to 3:00 P. M., and a shift at the repair track is from 7:00 A. M. to 3:30 P. M. with a thirty-minute lunch period.

The absent employee's schedule was 7:00 A. M. to 3:30 P. M. with a thirty-minute lunch break. The evidence submitted by the employees shows that he performed some work every day at the repair track. While the employee selected for the overtime assignment worked from 7:00 A. M. to 3:30 P. M., he was paid for all that time and was given a paid lunch break in the same manner as other employees at the transportation yard. Moreover, he worked the entire shift at the transportation yard.

The basis of the employees' contention is that the carrier cannot fill a position at the repair track with someone from the transportation yard. Even if we were to conclude that the absent employee's position was at the repair track, it cannot be concluded from the record before this Board that the employee working overtime was filling the absent employee's position.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1968.

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