



Award Number 5954

Docket Number 5778

2-N&W-SM- '70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O.
(Sheet Metal Workers)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Sheet Metal Worker Miles Ratliff, Lamberts Point Shop, Norfolk, Virginia is entitled to be additionally compensated for eight (8) hours at the straight time rate, due to not being allowed to finish his work week assignment on Friday, July 14, 1967.
2. That Sheet Metal Worker Miles Ratliff be additionally compensated in the amount of four (4) hours for service on his regular rest days Saturday, July 15, 1967 and Sunday, July 16, 1967.

EMPLOYEES' STATEMENT OF FACT: On Tuesday, July 11, 1967, Bulletin No. 37 (67) was posted by the Norfolk and Western Railway Co., hereinafter referred to as the Carrier, at Lamberts Point Shop, Norfolk, Virginia. This Bulletin No. 37 (67) was in request for bids on a job with a work week assignment of Saturday through Wednesday, hours 7:00 A.M. to 4:00 P.M., rest days Thursday and Friday.

Sheet Metal Worker Miles Ratliff, hereinafter referred to as the Claimant, was regularly assigned to a Monday through Friday assignment, rest days Saturday and Sunday.

Claimant Ratliff was instructed by General Foreman Piers H. E. Sutton on Thursday, July 13, 1967, not to work on Friday, July 14, 1967, the last day of his work week, but to report for work Saturday, July 15th.

Claimant did not bid on this assignment, but was assigned to same on a permanent basis Monday, July 17, 1967, there being no bids received for this job.

Claimant's regular position was abolished Monday, July 17, 1967, effective July 23, 1967, by Bulletin No. 41 (67).

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

11. The Division in its prior Awards 1563, 1804 and 3264, in similar if not identical claims, have held that the carrier's position to be correct.
12. Custom and practice antedating the agreement was followed by the Carrier and Carrier could hardly have done otherwise under the facts and circumstances as shown.

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 waived right of appearance at hearing thereon.

Bulletin No. 37 (67) was posted by Carrier on Tuesday, July 11, 1967. The bulletin was a request for bids on a position with a work week assignment of Saturday through Wednesday, rest days on Thursday and Friday. The time for bidding expired July 15, 1967 at 7:00 A.M.

Claimant held a Monday through Friday assignment with rest days on Saturday and Sunday.

Claimant did not bid the position, but instead was assigned to fill the position being a junior man. Claimant contends that his foreman assigned him to fill the vacancy on Thursday, July 14, 1967, and instructed him to take the following day off and begin working the assignment on Saturday, July 16, 1967.

Carrier contends that Claimant was assigned to work the advertised vacancy on July 10, 1967 (Monday), and allowed to work on Thursday, July 14, 1967. According to Carrier, Claimant was instructed "to take Friday (July 15, 1967) as rest day and come in Saturday and Sunday to protect the bulletined job until bids were checked and if no bids were received on the job, he would be assigned to the job as he was the youngest man on the seniority roster, per Rule 52." Carrier goes on to state: "No bids were received and on Monday, July 17, 1967, Claimant Ratliff was assigned this job (Saturday-Wednesday, 7 A.M.-3 P.M., Thursday-Friday rest days) as bulletined.

The record further shows that by Bulletin 41 (67), Claimants old position was abolished on July 17, 1967 effective close of business, July 23, 1967.

Contrary to Claimant's allegation, Carrier asserts that he did not render service on his assigned rest days instead his assignment was temporarily changed to fill the bulletined vacancy and that Claimant assumed the rest days of the new assignment. Carrier further asserts that it is not material whether or not Claimant completed the assigned work week of the former assignment.

There is nothing under the Agreement between the parties which prevents Carrier from making temporary assignments to fill bulletin vacancies. And when so assigned, the employee assumes the work week and the rest days of the temporary vacancy.

A W A R D

Claim is denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

**ATTEST: E. A. Killeen
Executive Secretary**

Dated at Chicago, Illinois, this 25th day of June, 1970.