



Award Number 5961

Docket Number 5817

2-RDG-EW- '70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Harold M. Gilden when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 109, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C: I. O.
(Electrical Workers)**

READING COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement, Electrician Richard Weaver was unjustly dealt with when the Carrier failed to call him for duty, outside his regular bulletined hours, on November 4th and 5th, 1967.
2. That accordingly, the Carrier be ordered to compensate the aforesaid employe at the applicable overtime rate of pay for all service denied him on November 4th and 5th, 1967.

EMPLOYEES' STATEMENT OF FACTS: Richard Weaver, hereinafter referred to as the Claimant, was employed by the Reading Company, hereinafter referred to as the Carrier, at the Headquarters of the Electrical Department in Reading, Pennsylvania, as a Lead Electrician, Monday through Friday, with rest days Saturday and Sunday. The Claimant took vacation for five (5) days, effective October 30th to November 3rd, inclusive. At 5 A.M. on November 4, 1967, an emergency existed, and Carrier called Electrician Smith, the other regularly assigned Electrician at Reading, along with Electrician, Paul Yoh, who is regularly assigned at Philadelphia, Pennsylvania, for service, which lasted until 11 A.M., Sunday, November 5, 1967. At 2:30 P.M., on Sunday, November 5, 1967, the same two employes were recalled and worked until Sunday Midnight. The Claimant was available for duty and, since he is regularly assigned at Reading, should have been called in place of Electrician Paul Yoh from Philadelphia, Pennsylvania.

Under date of December 4, 1967, claim was presented to Mr. I. E. Brandt, Electrical Supervisor, which letter gives the Claimant's reasons for the claim.

Under date of January 2, 1968, Mr. Brandt replied, denying the claim.

Under date of February 5, 1968, claim was progressed to Mr. G. B. Blatt, Chief Signal, Electrical and Communications Engineer, with a copy to Mr. Brandt, in which we took exceptions to Mr. Brandt's denial, and gave further reasons why claim should be paid.

Third Division Award 15797 recently determined that the existence of such a practice rendered the vacationing employe "unavailable" for such rest day assignments and hence justified Carrier's use of the vacation relief worker.

For the reasons advanced herein Carrier submits that the claim of the organization should be denied in its entirety.

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 were given due notice of hearing thereon.

On the question of whether or not there are restrictions on the territorial assignments of electricians at Reading and Philadelphia, it is perfectly obvious that the system wide seniority which enabled Electrician Yoh to fill claimant's job as his vacation relief from Monday, October 30 through Friday, November 3, 1967, would also serve to make him eligible for the overtime work opportunities on Saturday, November 4, and Sunday, November 5, resulting from the derailment at Beaver Valley.

Considering that there is no provision in the labor contract that purports to give the regularly assigned electrician priority over his vacation relief counterpart, for overtime work on the two rest days immediately following the vacation period, it cannot be said that claimant, as the incumbent electrician at Reading had a better right to handle the work here in dispute than did Yoh, the vacation relief electrician from the Philadelphia electrical department.

If, as the Organization insists, the calling of claimant at 5:00 P.M. on Sunday, November 5, for service at Phoenixville, and the calling of the other Reading electrician, N. Smith, "during his vacation period on a rest day August 8, 1965", is indicative of the fact that on this property there is no consistent past practice wherein employees are considered unavailable for service on the rest days preceding, between and following their scheduled vacation periods, it would be incumbent on the parties to negotiate a rule to succinctly set forth the respective sequences of preferences in these situations.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of June, 1970.