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NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6357
Docket No. 6145
2-CMStP&P-CM-'72

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute: (System Federation No. 76, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the current Agreement was violated when the Carrier failed to properly compensate members of the Savanna, Illinois Wrecking Crew for hours from 12:00 midnight to 5:00 A.M., March 21, 1970.
2. That accordingly the Carrier be ordered to additionally compensate the following members of the Savanna Wrecking Crew:

G. L. Robertson - Wrecking Engineer
J. F. Carr - Carman
R. D. Mann - Carman
A. R. Vetrisek - Carman
L. E. Bauer - Carman

in the amount of five (5) hours at one-half (1/2) time of the prevailing rate, plus 6% interest per annum commencing with the date of the violation until disposition of the claim. This amount represents the difference between the time and one-half rate they were paid and the double time rate they should have received.

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 facts stated briefly disclose that employes commenced work as carmen as scheduled at their regular station at Savanna, Illinois, at 7:30 A.M., except one who reported at 8 A.M. At 8 A.M. they were transported to a wreck site where they arrived at 1 P.M. They then worked continuously until 6:30 A.M. the next morning, after which they were returned to Savanna.

Rule 8 and Rule 10 of the agreement are involved. In addition, the Organization claims the right to 6% interest citing Third Division Award No. 16632 and action of the National Labor Relations Board in which the courts have approved awards of interest.

As to interest, we have discussed very recently in Award No. (Docket No. 6138) the distinction between the powers granted by Congress to the National Labor Relations Board to fashion appropriate remedies and the function of this Board to limit its findings to the Agreements and Rules negotiated by the parties. There is no agreement between the parties to award interest.

Consideration has been given to Second Division Awards: No. 2030 which denied the claim on the strict construction of an agreement which provided pay for time worked on a rest day, but the Board excluded time spent in waiting or traveling; Award No. 2251 which denied the claim for pay while conferring with the carrier's attorney on a rest day to prepare for a court trial because a Rule of the Agreement provided compensation only for loss of earnings while attending court and made no provision for time spent where there was no loss of earnings; Award No. 3484 which denied the claim for overtime pay under a call in rule for time spent after bulletined hours in an investigation conducted by the carrier because it was not work as required by the Rule; Award No. 3955 which denied the claim of a monthly paid employe for compensation for a stand-by day as time worked since work was not performed and work that was performed during the normal eight hour period was paid under the monthly pay agreement; Award No. 4660 which sustained a claim for time spent by a crane operator climbing and descending a ladder to a crane at the beginning and end of his assignment and at lunch time because it was defined as work; Award No. 5840 which denied compensation for all time consumed as a wrecking crew because a rule specifically excluded relief time during which work was not performed.

Rule 88 of the Agreement requires that pay will be as set forth in Rule 10. Rule 10 in (a) states the method for computing pay and in (d) refers to Rule 8 (h) for payment of double time for actual work performed. The Carrier's Submission p.p. 5, 6, sets forth the computation used for payment in this case for waiting and traveling time and for actual work performed. Reference is made to Third Division Award No. 16611 and to Second Division Award No. 3987 to support the meaning of, "actual work performed".

The Carrier's computation is correct but fails to account for the one-half hour spent in actual work by the carmen who reported at 7:30 A.M. on March 20. The

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claimants, except for one who reported at 8 A.M., would be entitled to receive one-half hour pay at double time.

A W A R D

Claim is disposed of in accordance with the above Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killeen

Executive Secretary

Dated at Chicago, Illinois this 14th day of July, 1972.