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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6420
Docket No. 6264
2-SLSW-CM-'73

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

Parties to Dispute: (System Federation No. 45, Railway Employees'
(Department. A. F. of L. - C. I. O.
((Carmen)
(St. Louis Southwestern Railway Company

Dispute: Claim of Employees:

1. That Carrier willfully violated rules of the current controlling agreement on December 17, 1970, when Rip Track Carman R. E. Spencer was denied his right to work on the Rip Track at Shreveport, Louisiana.
2. That the Carrier therefore be ordered to make whole by compensating the claimant in the amount of eight (8) hours at the double time rate.

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.

Carrier moves to dismiss this claim on the ground that Petitioner made no reference to a Rule in the controlling agreement allegedly violated by it when the matter was progressed on the property. Petitioner claims that it did in fact cite Rules 8 and 20 at conferences conducted between representatives of the parties prior to submission to this Board. Although it is preferred, in order to obviate argument as to the validity of statements concerning proper procedure, that the record of procedure below clearly indicate that the specific Rules invoked by Petitioner were duly raised, we will accept Petitioners averment that the requirement was satisfied by its oral presentation on the property.

This claim involves an alleged deprivation of overtime work opportunity. Claimant, who had worked his first rest day of his regular work week, was not called out to work on his second rest day. Another Carman, who had not worked his first

rest day was called in for the work. Petitioner asserts that the existence of two overtime boards at the location, one for Rip Track Carmen and another for Yard Carmen, compels carrier to utilize men from each list for services needed outside their assigned hours in the particular part of the shop referred to by such lists.

There appears to be no basis for a finding that Rule 20 was violated by the Carrier. The record includes a seniority list of all the Carmen at the location and both employees are listed thereon.

Rule 8-2 states, "Record will be kept of overtime worked and men called with the purpose in view of distributing overtime equally".

It is apparent that the establishment and maintenance of separate overtime boards for groupings within one classification is supplementary to the Rule. It is further recognized that implementation of such variations from the specific terms thereof, differ from place to place. The record herein fails to disclose the precise manner in which the two overtime boards were used or to be used in the circumstances prevailing on December 17, 1970.

Petitioner put the following question, "...why or for what purpose were the two overtime boards established", and we ask the same. It is incumbent upon Petitioner to prove by probative evidence a violation of a Rule of the controlling agreement or the manner in which same has been applied by the parties. This has not been done herein.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killean
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of January, 1973.