

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. 42, Railway Employees'
(Department, A.F. of L. - C.I.O.
((Carmen)
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That at Tallahassee, Florida, changing of the first shift repair forces to a lunch period of thirty (30) minutes which ends at 3:30 P.M. is not authorized by the current agreement.
2. That accordingly, the Carrier be ordered to compensate the following employes one (1) hours at pro rata rate for each day this violation occurs since July 31, 1971 until it is corrected. A. B. Stout, A. V. Youngblood, C. O. Harvey, H. B. Shelfer, J. B. Strickland, J. R. Nix, T. C. Ezell, M. L. Burks, J. D. McKendree, Jr., F. E. Wenzel, G. W. Beal, Jr., E. B. Chairs, Alexander Henry, M. Hardy, L. C. Spears, A. Gibson, Jr., L. E. Lucas, M. S. Hogan, J. Wilford and J. R. Perry.

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.

It is not disputed that for some years prior to August 1, 1971, the Carrier's repair track at Tallahassee, Fla., was operated on a one-shift basis, with the employes assigned 7:00 a.m. to 3:00 p.m., including an allowance for lunch of twenty minutes with pay within the eight consecutive hours. Rule 2(a) of the applicable Agreement provides: "(a) When one shift is employed, the starting time shall be 7:00 a.m. local time, or as may be agreed upon at any shop by the Company and employees covered by this agreement. The time and length of the lunch period

shall be arranged by mutual agreement." It is also not disputed that prior to August 1, 1971, the local officials of the Carrier discussed with the Local Chairman of the Organization the matter of lunch period for the repair track force with a view to agreeing upon the time and length of same. The Local Chairman refused to agree upon any change. The Carrier then placed in effect a thirty minute lunch period without pay, with the result that the quitting time became 3:30 p.m. rather than 3:00 p.m. The Carrier contends that the change was made for the purpose of increased productivity and to expedite repairs to needed equipment.

It is well settled that Carrier may determine the way in which the work and operations are to be performed and conducted in the interest of economy and efficiency except to the extent limited by law or by agreement with the representatives of its employes. It is also well established that the provisions of an agreement shall prevail and that past practices does not estop the Carrier or its employes from enforcing a contractual provision at any time. It was not, therefore, a violation of the agreement for the Carrier to institute proceedings for the establishment of a lunch period without pay for the employes here involved. The agreement provides only that the time and length of the lunch period will be by mutual agreement. In prior awards of this Division, we have held that failure to achieve such mutual understanding does not carry with it the power of the Organization to, in effect, veto such changes. Awards 2798 and 4605.

Our attention has been called to Award 6480 involving the same parties as here and a two-shift operation at another location. We have carefully reviewed that award and find it distinguishable from the present dispute. In that Award the Board found that the Carrier submitted nothing to support its assertion that the change was made to meet its operational needs. In the present case the Carrier has submitted evidence of the need for increased productivity. In any event, the determination of efficiency and economy of operation is for Carrier, except as limited by law or by agreement.

We find no agreement provision restricting the Carrier from making the change here complained of. In addition, the handling on the property, the Carrier asserted without refutation by the Organization: "* * * rip track forces throughout our system observe a 30 minute lunch period; and the change at Tallahassee is consistent with other locations on our property."

The Agreement was not violated.

Form 1
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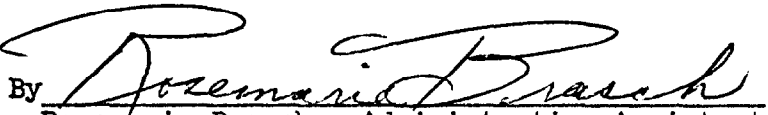
Award No. 6691
Docket No. 6525
2-SCL-CM-'74

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of May, 1974.