

The Second Division consisted of the regular members and in addition Referee David Dolnick when award was rendered.

Parties to Dispute: (System Federation No. 156, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(The Long Island Rail Road Company

Dispute: Claim of Employees:

1. That the following employee, R. Beynon, Electrician, was deprived of the double time rate of pay worked on Sunday, May 7, 1972 - five (5) hours - when he was called to work on the transformer at S.S. 601.
2. That the above mentioned employee be compensated at the double time rate of pay instead of the time and one-half rate he received for work performed on that day.

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.

Employes allege that prior to January 15, 1971, no electrical workers were regularly assigned to Sunday work at Dunton Shops. Claimant was assigned to work on Sunday, May 7, 1972 for which he was paid at the rate of time and one-half his regular rate. He claims that he should have been paid double time instead under Article VII of the Agreement.

Carrier contends that this was casual work not intended to be covered in Article VII and added the following:

"If the Agreement were to be interpreted as you contend, this man still would not be entitled to double time. The number of E.T. employees working on Sunday, May 7, 1972, was not greater than the number of E.T. employees working on Sunday, January 17, 1971, which was the qualifying Sunday for this rule. Therefore, no E.T. employes would be entitled to double time for work performed on Sunday, May 7, 1972."

This is one of a large number of similar claims filed by the Employees against this Carrier. Numerous Awards have been rendered on this subject. In Award No. 6662, with this Referee, the Board held that following the Award in Public Law Board No. 790 and others by this Division, casual workers were covered under Article VII. In that respect Carrier's position is erroneous.

We also held in Award No. 6662 that the number of electricians regularly assigned to work on Sunday, January 15, 1971 were 59. That number remains at 59 "as long as Article VII in its present form continues to be an accepted rule; that number is never exhausted for all time; it is exhausted only on those Sundays when 59 are assigned to work."

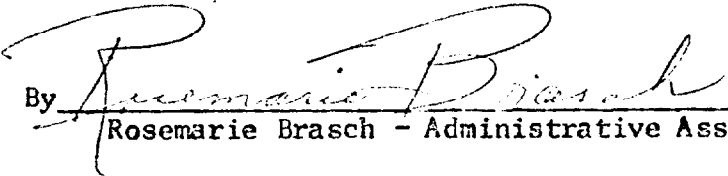
Since 59 electricians were not assigned to work on Sunday, May 7, 1972, Article VII has not been violated. There is no merit to the claim.

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 28th day of June, 1974.