

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (System Federation No. 16, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Akron, Canton and Youngstown Railroad Company

Dispute: Claim of Employees:

- (a) That under the current Agreement, the Carrier improperly assigned Carman R. E. Heffner to work overtime on the Repair Track on December 9, 1974, to the exclusion of Carman D. E. Fink.
- (b) That accordingly, the Carrier be ordered to compensate Claimant D. E. Fink for 5 3/4 hours at time and one-half, which is the actual time that Carman Heffner was permitted to work on the Shop Track on Car Repair on an overtime basis.

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.

This is a claim for overtime pay by a Claimant who was not used to perform wrecking service while another employee (who had some 70 hours more overtime than Claimant) was used.

Basic to a claim for overtime pay on a particular date under the overtime equalization rule is evidence in the record that the employee who worked in lieu of the Claimant did in fact receive overtime pay. There is nothing substantive in this record to indicate whether Heffner (the carman used) was paid overtime. This deficiency precludes the Board from further inquiry.

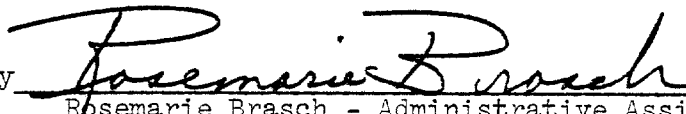
A W A R D

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 8th day of November, 1977.