

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 {
 { Kansas City Southern Railway Company

Dispute: Claim of Employes:

1. That the Kansas City Southern Railway Company violated the controlling Agreement, particularly Rule 6-B and the Overtime Board Rules when they arbitrarily assigned Machinist T. J. Walters to work overtime despite the fact that Machinist K. L. Kabonic was the first to be called out in accordance with the Overtime Board.
2. That accordingly, the Kansas City Southern Railway Company be ordered to compensate Machinist K. L. Kabonic in the amount of ten (10) hours at the punitive rate of pay for a Machinist for being denied the right to work overtime on Wednesday, June 11, 1975 and Thursday, June 12, 1975.

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.

On Tuesday, January 10, 1975, machinist T. J. Walters was instructed to report for work at 6:30 the following morning rather than at his regular 8:00 a.m. starting time. The purpose of this request was to give him the additional time necessary to prepare for a road trip to the site of a derailment at Amsterdam, Missouri where he was to assist in a rerailing operation. Once at the wreck site an emergency developed late in the day when carrier's wrecker became disabled. Due to this emergency machinist Walters was held on duty to make the necessary repairs on the wrecker. This work was completed early in the morning on the 12th of January, 1975.

The Organization alleges that the carrier violated the agreement between the parties when it failed to call claimant who was first out on the overtime board to perform the work in question. The record reflects that there is no dispute as to the propriety of holding over the machinists at the wreck site to repair the wrecker.

The rules in question are rule 6(b) of the controlling agreement and memoranda of agreement dealing with overtime dated April 27, 1961 and April 27, 1964 which read as follows:

"DISTRIBUTION OF OVERTIME: RULE 6-B. (a) When it becomes necessary for employees to work overtime they shall not be laid off during working hours to equalize the time.

(b) Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime equally."

"April 27, 1961

In order to more fully understand the operation of the overtime board, we hereby agree to observe the following rules and procedures, as nearly as possible.

1. Board in the beginning will be set up according to seniority.
2. Not necessary for a call off the Board, for less than a regular call. (2 hrs. 40 mins.)
3. Not responding to a call, for any reason, counts as a turn on the board.
4. Vacation or sickness: Man will turn with the board, understanding that he will not be called to work overtime when on vacation or extended sickness.
5. In the event of force reduction, man will be taken off the board, when called back will be placed last out on board, according to seniority if more than one.
6. Clerks will turn and set up board at the close of each shift. Shop committee will check board each day and work with clerk if mistake is made.
7. After board is set up, man may take his name off, or have it put on at any time, by notifying the Shop Committee in writing. When going back on he will go last out.

- "8. Man does not lose his turn on board, if overtime is worked on his regular shift and regular day.
9. Holiday work will not be taken off overtime board.
10. Any man working in a foreman's capacity will not be considered working overtime, and will not lose a turn on the board.

Approved for Local 579
I.A. of M.
Local Comm.

Approved for K.C.S. Loco.
Dept. at Pittsburg, Kansas

signed
Edward L. Tims - Ch.
J. O. Lavery
A. D. Burton"

signed
B. L. Uttley

April 27, 1964

Amendments to the understanding of the operation of the Machinists' overtime board in the Diesel Shop, Pittsburg, dated April 27, 1961.

(1) The existing practice of operating overtime board is to continue as is except the committee or the man appointed by the committeeman is to furnish the names of the men entitled to work overtime, if the selection is to be made during regular work hours. If necessary to call man between shifts, the foreman will call them from the overtime board.

When emergencies arise, such as road trips, foreman may use man most readily available.

(2) If men are needed on special jobs, foreman will consult with the committeeman and judgement will be used in selecting men needed.

(3) Men going to depot to service passenger trains will continue as in the past.

(4) Men held over for overtime continuous with regular work hours will not be selected from overtime board unless it is necessary to work more than two and one-half hours. Holdover overtime to be divided as evenly as possible.

"(5) Holidays not to be worked from board but according to seniority as in the past.

(6) When a man is called and he does not respond to call he will not be turned unless call is continued until position is filled.

This is a memorandum of understanding as to the operation of the overtime board and not an agreement, however, the contents herein will be observed as far as possible, consistent with the requirements of the service needed.

Approved for Local 579 I.A. of M.
Local Committee

signed - Arthur Burton

Approved for K.C.S.
Loco. Dept. at
Pittsburg, Kansas

signed - E. L. Hornbuckle
Shop Supt."

Paragraph 2 of the 1961 Agreement stating that "not necessary for a call off the Board, for less than a regular call (2 hrs 40 min)" is controlling in this case. Paragraph 1 of the 1964 Agreement states "The existing practice of operating overtime board is to continue as is except" The instance which is the subject matter of this claim is not the excepted. Nothing in the 1964 Agreement modifies paragraph 2 of the 1961 Agreement.

We will deny 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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of February, 1978.