

The Second Division consisted of the regular members and in addition Referee Arthur T. Van Wart 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 the Seaboard Coast Line Railroad Company violated terms of the controlling agreement at Augusta, Georgia, when they changed from a twenty (20) minute paid lunch period to a thirty (30) minute unpaid lunch period.
2. That the Seaboard Coast Line be ordered to compensate the following Carmen: L. C. Reynolds, H. J. Brown, T. O. Strom, J. F. Whitaker, L. C. Starling, T. S. Norville, A. S. Spears, A. P. Russell, L. C. Taylor, J. W. Lonergan, C. C. Bussey, H. E. Smith, C. E. Gallahar, V. L. Holland, K. H. Padgett, L. M. Riley, H. Holmes, W. H. Washington, S. Morris, J. A. Bailey, A. L. Lamb, W. W. Russell, R. L. Brewer, R. L. Hobbs, and W. Battles for thirty (30) minutes each day, five days each week, and J. Pardue, J. E. Hair one (1) day per week, for time between 11:30 a.m. and 12:00 Noon each day which they are being required to take as an unpaid lunch period, also one (1) hour each day, five days each week, for being required to work until 3:30 p.m., which is thirty minutes beyond their regular work 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 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 consolidated its mechanical operations at Augusta, Georgia with those of the Georgia Railroad into their Harrisonville Car Shop on September 1, 1976. Prior thereto Georgia Railroad employees in Harrisonville Car Shop were assigned 7:30 am to 4:00 pm, with thirty (30) minutes unpaid lunch period from 12:00 Noon to 12:30 pm. Seaboard Coast Line employees on the rip track in East Boundry Yard were assigned 7:00 am to 3:00 pm with a twenty (20) minute paid lunch period.

Conference was held, August 1, 1976, with the Employee Representatives who had protested assignment of the thirty (30) minute lunch period without pay. Carrier at their request, changed the hours of the one shift of assignment at Harrisonville Car Shop, from 7:30 am - 4:00 pm to 7:00 am - 3:30 pm. The lunch period was changed from 12 Noon to 12:30 pm to 11:30 am to 12:00 Noon. The instant claims commenced to be filed thereafter.

Rule 2 - "Assignment of Shifts", in pertinent part reads:

"(a) When one shift is employed, the starting time shall be 7:00 AM 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. ..." (underscoring supplied)

The above rule does not require that Carrier grant a lunch period with pay. It does require, however, that Carrier negotiate over the time and length of the lunch period. Carrier had here fulfilled that obligation.

That there was a failure of mutual agreement is not fatal. As was held in this Division's Award 6691, which involved a similar dispute on this property:

"It was not, therefore, a violation of the Agreement for carrier to institute proceedings for the establishment of a lunch period without pay for the employees 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."


There was no real reason in the record to not follow Award 6691, hence, these claims will likewise be denied.

A W A R D

Claims 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 February, 1979.