

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (System Federation No. 76, Railway Employees'
(Department, A. F. of L. - C. I. O. .
((Carmen)
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Carmen M. Petersen, J. Gulbranson, P. Johnson, E. Schadegg and K. Oestrieck, Minneapolis, Minnesota, were denied compensation for the period of 12:00 Noon to 12:30 P.M. while they were away from home station on emergency road work; the amount of one-half hours pay at straight time rate for the following days:

M. Petersen	January 26, 27, 28 and February 1, 1977
J. Gulbranson	January 26, 27, 28 and February 1, 1977
P. Johnson	January 29, 1977
E. Schadegg	February 1, 1977
K. Oestrieck	February 1, 1977

2. That the Chicago and North Western Transportation Company be ordered to compensate Carmen M. Petersen, J. Gulbranson, P. Johnson, E. Schadegg and K. Oestrieck for one-half hours pay at straight time rate for the above identified dates, and that the Chicago and North Western Transportation Company, in the future discontinue its practice of depriving carmen of compensation for meal periods while away from home point on emergency road work.

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.

Claimants were regularly assigned to the Rip Track facility of the Carrier at East Minneapolis, Minnesota, at the time of events germane to this case. On the dates in the claim, they were sent away from this facility to perform work on the line of road or other facilities. They returned to their home facility prior to the end of the shift on each such date. The record will indicate that all claimants were afforded the opportunity to observe their lunch period 12:00 noon to 12:30 p.m., each day of the claim. Organization contends that the literal and unambiguous language of Article 10 supports the claimants demand for pay for the thirty-minute lunch period; the Carrier claims to the contrary.

"ARTICLE 10 -- EMERGENCY ROAD WORK

An employe regularly assigned to work at a shop, engine-house, repair track or inspection point; when called for emergency road work away from such shop, enginehouse, repair track or inspection point, will be paid from the time ordered to leave home station, until his return for all time worked in accordance with practice at home station and will be paid straight-time rates for traveling or waiting, except rest days and holidays, which will be paid for at the rate of time and one-half.

If, during the time on the road a man is relieved from duty and permitted to go to bed for five or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight hours each calendar day, when such irregular services prevents the employe from making his regular daily hours at home station where meals and lodging are not provided by the railway company, actual necessary expenses will be allowed.

Employees will be called as nearly as possible one hour before leaving time, and on their return will deliver tools at points designated.

If required to leave home station during overtime hours they will be allowed one hour preparatory time at straight-time rate.

Wrecking service employes will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight-time hours at home station and all time working, waiting or traveling on rest days and holidays will be paid for at rate of time and one-half."

The identical case has been argued and disposed of before by the Board in Award 1784. And, while the Carrier may choose to argue that it did not deal with the issue on point, the fact is that Award 4495 reiterated the precise rationale expressed in 1784. We find no other proffered Awards on this point, and while the Carrier raises several persuasive arguments otherwise, we do not find sufficient justification to upset such prior conclusions based upon the record presented and argued on the property.

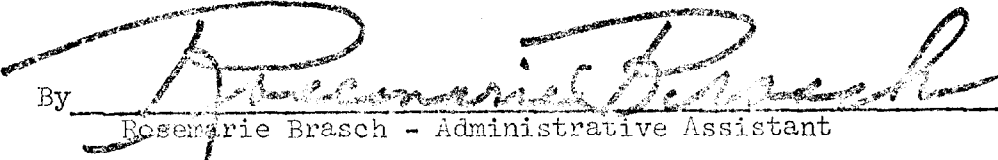
A W A R D

Claims sustained.

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 February, 1979.