

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

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Soo Line Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement the Soo Line Rail R.R. Co. violated Rule 34-10-15 and 27 of shops craft agreement, current and past practice for employees' to hold two bulletin positions at Stevens Point, Wis. and the understanding of Mr. D. G. Foote's letter of May 19, 1975.
2. That accordingly the Soo Line R.R. Co. be ordered to compensate Carman Richard J. Suchon for time lost because carrier denied him compensated pay because he was not allow to perform the work of his position as 2nd truck driver is now claiming:

10-7-75	1/2 hr. overtime	1 hr. str. time
10-8-75	1/2 hr. overtime	
11-4-75	1/2 hr. overtime	
11-5-75	1/2 hr. overtime	2/3 hr. str. time

also carrier to be ordered to compensate claimant for time lost due to abolishment of position of the 2nd truck driver when needed, is now claiming:

12-30-75	1 hr. overtime	1 hr. str. time
1-12-76	7 hrs. overtime	
1-13-76	7 1/2 hrs. overtime	
1-14-76	1/2 hr. overtime	
1-16-76	1 3/4 hr. overtime	1 hr. str. time
1-19-76	1/2 hr. overtime	
1-20-76	9 1/2 hr. overtime	
1-22-76	1 1/2 hrs. overtime	1 hr. str. time
1-23-76	1 1/2 hrs. overtime	1/4 hr. str. time
1-24-76	2 2/3 hrs. overtime	
1-25-76	7 3/4 hr. overtime	
1-26-76	9 1/2 hrs. overtime	
1-27-76	1 1/6 hrs. overtime	
1-28-76	1 1/2 hrs. overtime	
1-29-76	2 1/4 hrs. overtime	
1-30-76	2 1/2 hrs. overtime	
2-1-76	2 2/3 hrs. overtime	
2-4-76	1 1/6 hrs. overtime	
2-5-76	1/2 hr. overtime	

2-6-76	2 1/6 hrs. overtime
2-7-76	3 1/2 hrs. overtime
2-8-76	2 2/3 hrs. overtime
2-9-76	1/2 hr. overtime
2-10-76	1 1/2 hrs. overtime
2-11-76	1/2 hr. overtime
2-12-76	2 1/6 hrs. overtime
2-12-76	6 1/4 hrs. overtime
2-13-76	1/2 hr. overtime
2-17-76	1/2 hr. overtime
2-18-76	2 1/2 hrs. overtime
2-19-76	2 1/2 hrs. overtime
2-20-76	1 1/2 hrs. overtime
2-23-76	1/2 hr. overtime
2-23-76	6 hrs. overtime
2-24-76	2 1/2 hrs. overtime
2-25-76	2 hrs. overtime
2-25-76	2 1/4 hrs. overtime
2-27-76	1/2 hr. overtime
2-29-76	9 1/4 hrs. overtime
3-1-76	5 1/2 hrs. overtime
3-1-76	12 hrs. overtime
3-4-76	6 1/4 hrs. overtime
3-8-76	1/2 hr. overtime
3-9-76	1/2 hr. overtime
3-10-76	1/2 hr. overtime
3-11-76	2 1/2 hrs. overtime
3-12-76	7 hrs. overtime
3-16-76	2 1/2 hrs. overtime
3-17-76	2 1/2 hrs. overtime
3-18-76	2 1/2 hrs. overtime
3-19-76	7 hrs. overtime
3-20-76	3 1/2 hrs. overtime
3-23-76	2 1/2 hrs. overtime
3-23-76	2 2/3 hrs. overtime
3-24-76	2 2/3 hrs. overtime
3-25-76	7 1/2 hrs. overtime
3-27-76	1/2 hr. overtime
4-1-76	1 hr. overtime
4-2-76	1/2 hr. overtime
4-2-76	2 2/3 hrs. overtime
4-3-76	15 1/2 hrs. overtime
4-5-76	8 1/2 hrs. overtime
4-7-76	1 1/4 hrs. overtime
4-8-76	2/3 hr. overtime
4-6-76	1 1/4 hrs. overtime
4-9-76	2 3/4 hrs. overtime
4-11-76	6 3/4 hrs. overtime
4-12-76	1/2 hr. overtime
4-13-76	1/2 hr. overtime
4-14-76	2/3 hr. overtime

4-15-76	1 1/4 hrs. overtime
4-20-76	1/2 hr. overtime
4-21-76	1/2 hr. overtime
4-30-76	1/2 hr. overtime
5-1-76	2 2/3 hrs. overtime
5-4-76	1/2 hr. overtime
5-4-76	2 2/3 hrs. overtime
5-6-76	1/2 hr. overtime
5-10-76	1/2 hr. overtime
5-12-76	7 hrs. overtime
5-13-76	1 1/2 hrs. overtime
5-16-76	4 hrs. overtime
5-16-76	2 hrs. overtime
5-19-76	1/2 hr. overtime
5-20-76	1 1/2 hrs. overtime
5-22-76	8 1/2 hrs. overtime
5-23-76	14 3/4 hrs. overtime
5-25-76	1 1/4 hrs. overtime
5-27-76	2 hrs. overtime
6-1-76	1 1/2 hrs. overtime
6-2-76	9 hrs. overtime
6-3-76	1 3/4 hrs. overtime
6-4-76	1/2 hr. overtime
6-5-76	4 hrs. overtime
6-8-76	1 1/2 hrs. overtime
6-9-76	3 1/2 hrs. overtime
6-15-76	1 1/4 hrs. overtime
6-18-76	2 1/4 hrs. overtime
6-21-76	1 hr. overtime
6-22-76	2 1/4 hrs. overtime
6-22-76	1 3/4 hrs. overtime
6-24-76	1/2 hr. overtime
6-29-76	2 1/2 hrs. overtime
6-30-76	1/2 hr. overtime
7-1-76	1/2 hr. overtime
7-2-76	1/2 hr. overtime
7-6-76	1/2 hr. overtime
7-13-76	6 hrs. overtime
7-15-76	1/2 hr. overtime
7-16-76	1/2 hr. overtime
7-19-76	1/2 hr. overtime
7-20-76	1/2 hr. overtime
7-23-76	1/2 hr. overtime
7-27-76	1/2 hr. overtime
7-30-76	1/2 hr. overtime
8-4-76	1 1/6 hrs. overtime
8-5-76	5 hrs. overtime
8-10-76	1 1/2 hrs. overtime
8-20-76	1/2 hr. overtime
8-20-76	4 1/2 hrs. overtime
8-24-76	1/2 hr. overtime

8-25-76 1/2 hr. overtime
8-27-76 1/2 hr. overtime
8-29-76 5 hrs. overtime
8-30-76 1/2 hr. overtime
9-1-76 1/2 hr. overtime
9-2-76 15 1/2 hrs. overtime

vacation remainder of September

10-4-76 1/2 hr. overtime
10-5-76 2 1/2 hrs. overtime
10-6-76 4 1/2 hrs. overtime
10-7-76 1 1/6 hrs. overtime
10-8-76 3 1/2 hrs. overtime
10-9-76 2 2/3 hrs. overtime
10-11-76 3 1/2 hrs. overtime
10-12-76 1 3/4 hrs. overtime
10-18-76 2/3 hrs. overtime
10-20-76 1/2 hr. overtime
10-26-76 1/2 hr. overtime
10-28-76 1/2 hr. overtime
10-29-76 1 1/2 hrs. overtime
10-30-76 9 1/2 hrs. overtime
11-2-76 2 1/2 hrs. overtime
11-4-76 1/2 hr. overtime
11-8-76 1/2 hr. overtime
11-9-76 1/2 hr. overtime
11-10-76 1/2 hr. overtime
11-11-76 1/2 hr. overtime
11-12-76 6 1/2 hrs. overtime
11-15-76 1/2 hr. overtime
11-16-76 1/2 hr. overtime
11-17-76 1 1/2 hrs. overtime
11-18-76 2 1/2 hrs. overtime
11-19-76 1 1/2 hrs. overtime
11-23-76 7 hrs. overtime
11-24-76 2 1/2 hrs. overtime
11-26-76 1 hr. overtime
11-29-76 1/2 hr. overtime
11-30-76 1 1/2 hrs. overtime
12-1-76 1/2 hr. overtime
12-3-76 1 1/2 hrs. overtime
12-3-76 2 1/2 hrs. overtime

off injury from 12-4-76 to 1-13-77

1-14-77 1 1/2 hrs. overtime
1-15-77 9 hrs. overtime
1-17-77 1/2 hr. overtime
1-18-77 3 1/4 hrs. overtime
1-19-77 1 1/4 hrs. overtime

1-20-77	4 1/2 hrs. overtime
1-21-77	2 hrs. overtime
1-25-77	8 1/2 hrs. overtime
1-26-77	6 1/2 hrs overtime
1-27-77	1/2 hr. overtime
1-28-77	4 hrs. overtime
1-31-77	1/2 hr. overtime
2-1-77	1 3/4 hrs. overtime
2-2-77	6 1/2 hrs. overtime
2-3-77	2 2/3 hrs. overtime
2-4-77	1 1/2 hrs. overtime
2-4-77	6 hrs. overtime
2-6-77	2 2/3 hrs. overtime
2-5-77	2 2/3 hrs. overtime
2-7-77	3 1/2 hrs. overtime
2-8-77	1/2 hr. overtime
2-9-77	2 1/2 hrs. overtime
2-10-77	2 hrs. overtime
2-11-77	2 hrs. overtime
2-15-77	1/2 hr. overtime
2-18-77	1/2 hr. overtime
2-24-77	1 hr. overtime
2-25-77	1/2 hr. overtime
3-1-77	1/2 hr. overtime
3-5-77	2 2/3 hrs. overtime
3-8-77	8 hrs. overtime
3-9-77	1 1/6 hrs. overtime
3-10-77	1 1/6 hrs. overtime
3-11-77	3 hrs. overtime
3-15-77	6 1/2 hrs. overtime
3-16-77	1 hr. overtime
3-17-77	1/2 hr. overtime
3-22-77	2 hrs. overtime
3-23-77	1/2 hr. overtime
3-24-77	1/2 hr. overtime
3-29-77	3 hrs. overtime
3-28-77	8 1/2 hrs. overtime
3-30-77	2 hrs. overtime
3-31-77	2 hrs. overtime
4-1-77	1 1/2 hrs. overtime
4-3-77	7 1/6 hrs. overtime
4-4-77	2 hrs. overtime
4-6-77	1/2 hr. overtime
4-7-77	1 1/2 hrs. overtime
4-8-77	11 hrs. overtime
4-11-77	8 hrs. overtime
4-12-77	16 hrs. overtime
4-13-77	3 1/4 hrs. overtime
4-14-77	1/2 hr. overtime
4-15-77	2 1/2 hrs. overtime
4-18-77	6 1/4 hrs. overtime

4-20-77	6 1/2 hrs. overtime
4-21-77	6 hrs. overtime
4-22-77	6 1/2 hrs. overtime
4-25-77	7 hrs. overtime
4-26-77	7 1/4 hrs. overtime
5-2-77	5 1/4 hrs. overtime
5-3-77	1/2 hr. overtime
5-3-77	2 2/3 hrs. overtime
5-4-77	1/2 hr. overtime
4-29-77	2 2/3 hrs. overtime
5-6-77	1 1/6 hrs. overtime
5-9-77	1/2 hr. overtime
5-10-77	3 1/2 hrs. overtime
5-11-77	1/2 hr. overtime
5-13-77	1/2 hr. overtime
5-13-77	2 1/2 hrs. overtime
5-18-77	1/2 hr. overtime
5-23-77	1/2 hr. overtime
5-25-77	2 hrs. overtime
5-26-77	2 1/2 hrs. overtime
5-27-77	3 hrs. overtime
5-28-77	11 1/2 hrs. overtime
5-31-77	1 1/6 hrs. overtime
6-3-77	1/2 hr. overtime
6-5-77	15 1/2 hrs. overtime
6-6-77	1/2 hr. overtime
6-10-77	1/2 hr. overtime
6-14-77	1/2 hr. overtime
6-15-77	4 hrs. overtime
6-16-77	1/2 hr. overtime
6-17-77	1/2 hr. overtime
6-20-77	1/2 hr. overtime
6-21-77	3 1/2 hrs. overtime
6-22-77	1/2 hr. overtime
6-23-77	1/2 hr. overtime
6-24-77	1/2 hr. overtime

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.

The Claimant, Richard J. Suchon, is an employee of the Carrier at Stevens Point, Wisconsin, and is employed as a member of the craft of Carmen. On February 14, 1968, the position of Carman, working off a Road Repairman's extra list was advertised and on February 27, 1968, that position was awarded to the Claimant. The Claimant also worked as Carman on the repair track.

On August 24, 1975, the Claimant exercised his seniority to displace Rotoboom Operator, D. Behnke, and on August 27, the Claimant was notified that his request to displace onto the Rotoboom position had been honored and he was to report effective September 1, 1975.

According to the Carrier, upon the Claimant's displacement of the Rotoboom operator, he was considered to have forfeited any right he might have had to the Relief Road Truck position. The Carrier determined that the Relief Road Truck position should be abolished because the previous bulletining of the position had not accomplished the purposes intended. Carrier states that the practicalities of the situation with regard to the work available and the times at which it was needed militated in favor of having the work performed from the overtime list with an equal distribution of time to Carmen of the overtime block. The Carrier contends that Paragraph 3 of Rule 15 governs this case. Paragraph 3 states:

"An employee exercising his seniority rights under this rule will do so without expense to the carrier; he will lose his right to the job he left; and, if after a fair trial he fails to qualify for the new position, he will have to take whatever position may be open in his craft."

The Carrier says that the Claimant exercised his seniority rights and thereby automatically terminated his rights to the Relief Road Truck position which the Carrier at that point abolished.

The Organization contends that the Claimant was not immediately notified that he had relinquished his rights to the Relief Road Truck driver position, that other employees hold both a primary and secondary position under dual bulletins and that, therefore, the Claimant had been discriminated against within the meaning of Rule 34, Paragraph 1, which prohibits discrimination against Committeemen. The Claimant was a Local Committeeman. The Organization also claims that Rule 10, Paragraph 1, relating to emergency road work was violated. Rule 10, Paragraph 1, provides:

"An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when ordered for emergency road work away from such shop engine house, 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 the practice at home station and will be paid straight time rate for all time waiting and traveling."

The Organization contends further that by not allowing him to work the Road Truck driver position under the provisions of the Agreement that there was a violation of Rule 15, Paragraph 1 and Rule 27, Paragraph 1, because there was a deprivation of seniority. Those Rules provide:

"When new jobs are created or permanent vacancies occur in the respective crafts the oldest employees in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them."

"Mechanics helpers and apprentices of each craft will be shown on their respective point craft seniority lists separately."

As to the contentions by the Organization that the employee was not notified that he would forfeit his part time rights as Road Truck driver, the Carrier points out that the General Chairman of the Organization was, in fact, notified, that the Rule clearly provides for forfeiture, that the Claimant as Local Chairman must reasonably have been expected to have been familiar with the Rule, and that there is no requirement of notification contained in the Rule. As to the claim that there are some employees who hold two positions, the Carrier points out that in all but one instance such situations pertain to emergency wrecking service positions which are called upon only in connection with derailments. The Carrier also points out that if the Relief Road Driver position had been continued the Rotorboom Operator and Relief Road Driver would have had the same hours of assignment and that the Claimant would have been required to protect the two positions at the same time, a situation which is impractical, if not impossible.

The Board is of the view that a single isolated incident may not contravene the plain and unambiguous terms of Paragraph 3 of Rule 15. Third Division Award No. 13994. Rule 10 merely provides that a method of payment for employees called out in wrecking service. The claim of discrimination is not supported by the record and the Board finds no violation of Rule 34. Nor does the Board find any violation of seniority or of Rule 15, Paragraph 1 or Rule 27, Paragraph 1.

The Board finds that Paragraph 3 of Rule 15 governs this case and that under the circumstances of this case the Carrier had the right to abolish the position and rearrange the remaining work. The claim must be denied.

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 27th day of September, 1979.