

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

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

Dispute: Claim of Employees:

1. That under the current working agreement the Norfolk and Western Railway Company improperly compensated Carman L. Klutzke and Carman J. Disinger for eight (8) hours each at straight time rate of pay on their regularly assigned rest day, Saturday, May 15, 1976, at Frankfort, Indiana.
2. That accordingly the Norfolk and Western Railway Company be ordered to additionally compensate Carman L. Klutzke and Carman J. Disinger for four (4) additional hours each at straight time rate of pay for May 15, 1976.

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 both regularly assigned to positions as Vacation Relief Carmen at Carrier's repair track and Transportation Yard at Frankfort, Indiana. The bulletined duties of those positions are as follows: "... assuming the assignment of the position relieved, also working as Carman on Repair Track when not relieving vacation vacancies and any other work pertaining to this craft. (7:00 AM to 3:00 PM) daily, except, Saturday and Sundays are rest days." Both Claimants were assigned to work first shift Saturday May 15, 1976 as vacation relief on the Rip Track for employees who had been on vacation for the week of May 10. The positions which Claimants filled on Saturday May 15, 1976 carried regular rest days of Sunday-Monday. Each Claimant already had worked Monday May 10 through Friday May 14, 1976 on other assignments. Thus Claimant Disinger had worked all that week as vacation relief on the second shift in the Train Yard. Claimant Klutzke had worked May 10-12 as vacation relief on the second shift in the Train Yard; but on May 13 and 14 he was not assigned to vacation relief and so worked in the Repair Track 7-3 consistent with his bulletined duties. For their eight hours of work on May 15 Claimants were compensated by Carrier at the

straight time rate. Claimants, through the Organization, maintain that they should have been paid time and one-half for that day and in the claim, filed June 23, 1976, they seek an additional four hours pay.

The Organization contends that Carrier violated Rule 2 of the controlling Agreement when it required Claimants to work only one day of the vacationing employees' assignments rather than the entire assignment of the vacationing employees. Such a theory has been rejected in the past by Awards of this Board which we do not find palpably erroneous. Thus, in Award 2-3781, this Division stated: "... when the regular incumbent of a position is absent on vacation, there is no obligation upon the Carrier to fill that position unless the amount of work to be performed by the relieving employees would create an undue hardship upon such employees." See also Awards 2-1804, 2-5718, 2-5976, 2-3781, 2-6142, and 3-10758, all construing Article 6 of the National Vacation Agreement. In the present case there is no showing that it was necessary to fill the position of the vacationing employees prior to May 15, 1976.

Additionally, the Organization maintains that Claimants were entitled under Rule 5 to payment at the premium rate for working on Saturday since such is their bulletined rest day when they are working regularly on the Rip Track. This theory too must fail, because Claimants are not regularly assigned to the repair track first shift position as such, but only work in that capacity and enjoy its regular rest days when they are not needed to perform the primary duty of their bulletined assignment, which is vacation relief.

On the date in question they were filling a vacation vacancy on a day which was not a rest day of the position they filled. 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 5th day of March, 1980.