

by facts and testimony, that there is indeed such a practice and that it meets the criteria set forth above. On numerous occasions, this Board has declared that erroneous payments of monies cannot serve to establish these payments as a practice that must forever be continued. The organization in the instant case has fallen short of carrying its burden of establishing that a systemwide practice of paying double time and one-half for rest days work off district exists.

The record specifies four incidents where Maintenance Electricians were paid two-and-one-half times their daily rate for out-of-district work on rest days. These four payments took place in less than one year, from September 1975 to July 1976. Communications Maintainers were established in 1959 on carrier's property. Four instances in which such payments were made since 1959 do not provide a sufficient basis on which to conclude that a legitimate past practice exists on this carrier. The organization has also not demonstrated that the practice, if it does exist, is systemwide. Four examples at one location on the railroad does not meet the test of a systemwide policy. This Board has stated that erroneous payments of money by operations officers of the railroads do not serve to bind the official authorized to make and interpret agreements about these payments as a practice that must continue.

The carrier's argument that the previous payments of the two-and-one-half times the rate for out-of-district rest day work were in error is persuasive.

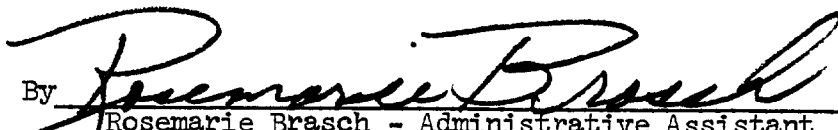
Absent words in the controlling agreement to authorize two-and-one-half times the regular rate when a Communications Maintainer works out of region on his rest day and absent the existence of a bona fide past practice on this carrier's property, this Board must deny the instant claim.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of April, 1980.