

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(Houston Belt and Terminal Railroad Company

Dispute: Claim of Employees:

1. That the Houston Belt and Terminal Railroad Company violated Agreement of April 24, 1970 when they failed to allow Carman D. Amason the double time rate March 1, 1983.

2. That the Houston Belt and Terminal Railroad Company be ordered to compensate Carman D. Amason in the amount of one (1) hour and fifty (50) minutes at the double time rate.

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 employees involved in this dispute are respectively carrier and employees 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, D. Amason, is a regular Carman who is scheduled to work Wednesday through Sunday. On Tuesday, March 1, 1983, the Claimant was called on his second rest day at 9:20 P.M. to be part of a re-railing crew. This assignment was completed at 1:00 A.M., March 2, 1983. The Organization contends the Claimant also worked his first rest day, February 28, and accordingly, the governing Agreement requires double the basic straight time rate for work on a second rest day. The Carrier denied this assertion and insists the Claimant was properly compensated for services on his second rest day because he performed emergency work and did not work the first rest day of his assignment.

On-the-property handling indicates this Claim was filed on March 5, 1983, and contended the Claimant was called at 9:20 P.M., March 1, and worked until 1:00 A.M., March 2. The Claim also stated the Claimant worked his first rest day for which he was paid time and one-half. The Carrier's initial

declination stated: "D Amason was called out under call rules for overtime." Thereafter, on March 25, 1983, the Carrier indicated that work on the wrecker truck has never been considered an off day situation because it "... is emergency type work." On June 29, 1983, the Carrier asserted the Claimant was called to perform emergency re-railing duties on his sixth day which carried over into his second rest day.

With respect to the evidence supporting the Carrier's contention the Claimant did not work on his first rest day, we find none except the assertion the work began on his sixth day and carried over to his seventh. The Carrier never directly addressed the Organization's initial assertion the Claimant worked his first rest day and was paid time and one-half.


Turning to the Controlling Agreement language, Article V, which makes an exception to the requirement that work on a second rest day shall be double time, and it is in the case of emergency work, the Organization submits that the Carrier simply claimed the work was "emergency type work" and failed to substantiate the existence of an emergency. As already indicated, the Carrier did contend the work involved emergency re-railing duties. However, other than raising this contention, we find the Carrier did not support this affirmative defense by competent evidence showing such was the circumstance on March 1, 1983.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of February 1987.