

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11457  
Docket No. 11198  
88-2-85-2-341

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

(Brotherhood Railway Carmen of the United States  
( and Canada  
PARTIES TO DISPUTE: (  
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM:

1. That the Missouri-Kansas-Texas Railroad Company violated the current controlling agreement when Carman C. E. Turner was ordered to work outside his regular assignment and failed to pay him properly.

2. That the Missouri-Kansas-Texas Railroad Company be required to pay Carman C. E. Turner in the amount of four (4) additional hours for the date of June 25, 1984.

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 employes 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 relevant facts are not in dispute. On June 24, 1984, the Claimant worked his regular 11:00 p.m. to 7 a.m. shift in the train yard at Denison, Texas. The Carrier ordered the Claimant to remain on duty to work the first shift train yard job from 7:00 a.m. to 3:00 p.m. on June 25, 1984.

The Organization contends that the Claimant, by working the first shift on June 25, 1984, is entitled to four (4) additional hours of compensation. It contends that the first shift job which the Claimant worked was not assigned to anyone; that it had been worked in the past, up to that point in time, by sending a Carman from the repair (RIP) track on Mondays and, lastly, that the Claimant did not relieve a vacation relief job. Accordingly, the Organization, relying upon the pertinent provisions of Rules 1, 3, and 4

of the parties' Agreement, submits that the Claimant is due four (4) hours pay at the proper pro rata rate.

The Carrier contends that the assignment at issue had been regularly worked by another Carman each Monday from November 28, 1983 to June 24, 1984, and it asserts that he would have filled the job on June 25, 1984, had he not been on vacation. Accordingly, it maintains that because the job filled was assigned to a person on vacation, the provisions of the applicable Vacation Agreement were applicable and that, as a consequence, the existing working rules should not be applied in a manner which would result in unnecessary expense to the Carrier.


The Board has carefully examined the record and the various contentions and issues brought forward by the parties. Based on this review, we conclude that the controlling question is whether the job filled by the Claimant on June 25, 1984, was regularly assigned to another employee and, thus, a "vacation vacancy" as these matters are generally construed in light of the pertinent provisions of the Agreement. The evidence shows that it was not a "vacation vacancy" and we sustain the claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of April 1988.