

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU  
(Union Pacific Railroad Company  
(Former Missouri Pacific Railroad Company)

STATEMENT OF CLAIM:

a) That the Missouri Pacific Railroad Company violated Rule 8 of the controlling Agreement when they failed to use Carman D. McDaniels for overtime June 19, 1987 in line with his position on the overtime board.

b) That the Missouri Pacific Railroad Company be ordered to compensate Carman D. McDaniels in the amount of two (2) hours at the straight 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 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 Carrier operates a train yard and repair track, known as the Settegast Yard, at Houston, Texas. The Claimant was employed there as a carman. Claimant had listed himself on an "overtime board" containing the names of all carmen desiring overtime assignments.

On June 19, 1987, a Carman was instructed by the Carrier to drive one of the Carrier's pickup trucks to Bishop Lifting Products and to perform certain carman's work there. While at Bishop Lifting Products, the Carman worked through his lunch hour. Consequently, he was paid regular straight time wages for an additional thirty minutes, the time he took to obtain lunch that day. Later that day, he was instructed to go to U.S. Steel to inspect or repair certain freight cars. He worked overtime at U.S. Steel and consequently was paid for an additional hour at time and one half.

The Organization argues that because the tasks assigned to the Carman on June 19, 1987, resulted in his earning an additional two hours' wages, the work should instead have been assigned to Claimant because Claimant's was the first name on the overtime board. The assigned Carman had not listed himself on the overtime board. The Organization argues that by not assigning the overtime work to the Claimant violated Rule 8 of the Agreement, which provides:

"RULE 8. DISTRIBUTION OF OVERTIME

(a) When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours to equalize the time.

(b) Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime equally. Local Chairman will, upon request, be furnished with record."

The Carrier argues that no violation of Rule 8 occurred. In the first place, the Carrier points out, Rule 8 does not require that every assignment which may involve overtime work be assigned to the carman listed first on the overtime board. Rule 8 merely requires that overtime records be kept and that an attempt be made to distribute overtime work equally. As this Board has previously said:

"The only restriction on the Carrier's right to make overtime assignments in a manner most consistent with economy and efficiency is that they keep a record of overtime assignments and that overtime will be distributed equally. The language of the contract does not limit the Carrier to calling only employees on the overtime board or obligate them to call these employees first-in or first-out." Second Division Award 9267

There is no evidence that the Carman assigned the overtime had received substantially more overtime work than Claimant as of June 1987, or that allowing him to perform the overtime work on June 19, 1987, was otherwise inconsistent with the objectives of Rule 8.

Furthermore, Rule 6 and not Rule 8 governs situations in which an employee is required to work through his lunch period. Rule 6 states:

"RULE 6. WORK DURING LUNCH PERIOD

Employees required to work during, or any part of, the lunch period, shall receive pay for the length of the lunch period regularly taken at point employed at straight time and will be allowed necessary time to procure lunch (not to exceed thirty minutes) without loss of time.

This does not apply where employees are allowed the twenty (20) minutes for lunch without deduction therefor."

As the Carrier aptly points out, Rule 6 was strictly complied with in this case. Certainly, the Carrier's compliance with Rule 6 cannot itself be deemed to constitute a violation of Rule 8 or any other Rule of the Agreement.

Accordingly, because there is no evidence of a Rule violation in this matter, the Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 8th day of May 1991.