

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/ Division of TCU
(
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

1. That the Atchison, Topeka and Santa Fe Railway Company violated Article V of the April 24, 1970 Agreement, as incorporated as Rule 6 of the September 1, 1974 Agreement, by not compensating the Claimant at the double time rate for his second rest day, December 24, 1989.

2. That accordingly, the Atchison, Topeka and Santa Fe Railway Company be ordered to compensate Carmen J. W. Stoner for four (4) hours at his pro rata rate of pay.

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.

There is no dispute as to the background facts in this dispute. The Claimant was regularly assigned to work Monday through Friday. On Monday, December 18, 1989, he requested, was entitled to, and receive a personal leave day, for which he was compensated eight hours. On Tuesday through Friday, December 19-22, he worked his regular assignment of eight hours each day. On Saturday, he worked eight hours on his first rest day and was compensated at time and one-half rate. On Sunday, he worked eight hours of his second rest day.

For the Sunday work, the Claimant was paid at the rate of time and one-half. It is the Organization's contention that he was entitled to the double-time rate for work on the second rest day, under Rule 6, which reads in pertinent part as follows:

"(b) Service performed by a regularly assigned hourly or daily rated employe on the second rest day of his assignment shall be paid at double the basic straight time rate provided he has worked all the hours of his assignment in that work week and has worked on the first rest day of his work week,"

There are two conditions precedent to receipt of double-time pay on the second rest day: (a) the employee has "worked all the hours of his assignment in that work week", and (b) "has worked on the first rest day of his work week." The Claimant met the second condition by working on Saturday. The Carrier contends that the Claimant failed to meet the first requirement, since the Claimant cannot be found to have "worked all the hours of his assignment", since he elected to take a personal leave day on Monday.

In support of its view that Monday should be counted as having been "worked" (because it was compensated), the Organization relies heavily on Second Division Awards 10033 and 11198. Those Awards, however, interpret the wording of the National Holiday Agreement, where the language is by no means identical to that under review here. In reference to qualification for holiday pay, the provision refers to "compensation . . . credited to the work days immediately preceding and following" the holiday. This is substantively different from the requirement to have "worked all the hours of his assignment," as is involved here. Awards 10033 and 11198, as well as others cited in reference to holiday pay, are clearly not determinative here (nor does this Award provide any guidance as to eligibility for holiday pay).

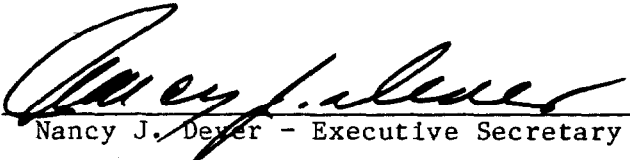
The conditions for double-time pay on the second rest day are specific and simply were not met in this instance. The first condition goes beyond a definition of "work day"; it concerns the requirement to have "worked all the hours of his assignment." Monday was part of the Claimant's "assignment", even though he chose to take a personal leave day.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of September 1992.