

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12796
Docket No. 12630
94-2-92-2-175

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(International Association of Machinists
(and Aerospace Workers
PARTIES TO DISPUTE: (
(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

"That the St. Louis Southwestern Railway Company violated Rules 8 and 100 in particular of the current controlling agreement, between the International Association of Machinists and the St. Louis Southwestern Railway Company dated November 1, 1953, when it began skipping over Machinists on the overtime board at its Pine Bluff, Arkansas facility who were eligible for double time pay, thereby adversely affecting Machinists W. D. Shillings, J. B. Cummings, L. Lusk, F. E. Kalkbrenner, F. S. Tucker, M. L. Lancaster, W. M. Hillman and R. J. Anderson.

That the Carrier compensate Claimants for eight (8) hours each at the double time rate of pay for each time they were passed over for overtime work beginning December 7, 1991, and continuing until the Carrier resumes calling the Claimants in proper seniority order."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Rule 8 of the applicable Agreement provides:

**"Rule 8
Distribution of Overtime**

8-1 When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours to equalize the time.

8-2 Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime equally."

At Pine Bluff, Arkansas, calling of overtime when needed, and keeping of records of overtime worked is done by Machinists themselves. On December 7, 1991, Carrier's Plant Manager instructed the Machinists that operated the Overtime Board that prior to calling Machinists on their second rest day, Machinists on their first rest days should be called. That is, call Machinists that could be worked at time and one half rates prior to calling Machinists to work at double time rates. The Machinists Organization immediately instituted the instant claim, contending, inter alia, that its Agreement was violated when Machinists were called out of order.

The claim is without merit. The Rule involved is not a seniority overtime rule but an equalization overtime rule. The administration of equalization overtime rules have been before this Board numerous times in the past. In Second Division Award 10256 the Board observed:

"There are a plethora of Awards which hold that an equalization system of overtime, as provided for here in Rule 8, does not necessarily require that a particular employee be selected or called for a particular assignment. Rather, these overtime rules have been interpreted to require that overtime be distributed as equally as possible over a reasonable period of time. ... See Second Division Awards 5136, 4980, 2123, and 2035."

The rationale of Award 10256 is not viewed to be in palpable error and it is embraced as being sound, here. As that rationale would be applied to the instant case, it is not whether an employee was passed over because working him overtime on a particular date would be at double time rates rather than time and one half, but whether the "over time worked" in the shop was distributed equally over a reasonable period of time. The claim is without merit. It will be denied.

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AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1994.