

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13065
Docket No. 12848
96-2-93-2-224

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

(International Brotherhood of Electrical
(Workers
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"1. That on March 24, 1992, under the current Agreement the Consolidated Rail Corporation improperly failed to additionally compensate Radio Maintainer G. Falterman at his pro rata overtime rate while attending Book of Rules Classes as ordered by the railroad, eight hours that date, beginning at 7:45 a.m., outside of and in addition to his regular tour of duty as a Radio Maintainer; and instead additionally compensate him for such eight hours at his pro rate straight time rate.

2. That accordingly, the Consolidated Rail Corporation should be ordered to additionally compensate Radio Maintainer G. Falterman by an amount equal to four hours' pay at straight time his pro-rata Radio Maintainer rate for attending Book of Rules Classes on March 24, 1992, as referred to in Item 1. above, in order to make him whole and protect the Agreement.

3. That on April 3, 1992, under the current agreement the Consolidated Rail Corporation improperly failed to additionally compensate Radio Maintainer R. Burzynski at his pro rata overtime rate while attending Book of Rules Classes as ordered by the railroad, eight hours that date, beginning at 7:45 a.m. outside and in addition to his regular tour of duty as a Radio Maintainer; and instead additionally compensate him for such eight hours at his pro rata straight time rate.

4. That accordingly, the Consolidated Rail Corporation should be ordered to additionally compensate Radio Maintainer R. Burzynski by an amount equal to four hours' pay at straight time his pro rata Radio Maintainer rate for attending Book of Rules Classes on April 3, 1992 as referred to in Item 3. above, in order to make him whole and protect the Agreement."

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 were given due notice of hearing thereon.

The Claimants are Radio Maintainers employed on a monthly-rated basis. They were directed to attend a NORAC Book of Rules class. The class was of approximately eight hours' duration. The Claimants attended outside their normal working hours but on weekdays when they also worked such normal hours. The Carrier paid the monthly-rated Claimants an additional eight hours' pay at straight time. The Organization argues that this mandatory assignment should have been paid at the time-and-one-half overtime rate.

The Carrier relies on Rule 8-M-1.(a), which reads as follows:

"(a) Employees will be paid at the straight time rate of pay for time attending related training sessions held during or outside of regular work hours."

The Organization disputes the application of this Rule on several bases. The Organization notes the word "related" in the Rule and contends that the training involved here was not directly "related" to the position of Radio Maintainer. The Board finds the Carrier has demonstrated that the Rules class here involved was applicable, and thus related, to at least some of the responsibilities which a Radio Maintainer is called upon to perform.

The Organization further refers to Appendix "C", Section 8, which reads as follows:

"B. Pending resolution of the cross representation problem, this Agreement shall apply to Communication Department employees represented by the International Brotherhood of Electrical Workers except their rates of pay, basis of pay, and other special rules shall remain unchanged."

In this connection, the Organization points to Rule 4, Time Allowances, and Rule 5, Handling of Employees. Because the Claimants were directed to attend the Rules class, rather than attending on a voluntary basis, the Organization argues that the overtime provisions of Rules 4 and 5 are applicable. These Rules, however, are concerned with "work" and "time worked". It has been repeatedly determined by previous Awards that training classes, whether compulsory or not, are not "work or service". As stated in Public Law Board No. 3502, Award 8:

"The threshold issue before this Board is whether compulsory attendance at an Operating Rules meeting constitutes 'service' or 'work' within the parties' intended meaning.... Prior awards of the National Railroad Adjustment Board have ruled that attending periodic rules examinations or class lectures outside assigned hours cannot be characterized as service on behalf of the Carrier within the traditional meaning of the term."

Much more recently Second Division Award 12639 made the same point:

"There are numerous Awards on all Divisions which have held that training outside an employee's regularly assigned hours does not trigger an overtime payment. See Second Division Awards 12359, 12235, 12235; Third Division Awards 28575, 27021 and 22704."

The single question before the Board is simply whether the pay which the Claimants received should have been at the punitive rate. The answer is in the negative.

AWARD

Claim denied.

ORDER

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

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1996.