

Award No. 3080

Docket No. MW-3220

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

WABASH RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that Section Foreman Charles Gamache, Chicago Terminal Division, shall be paid at overtime rate, eight hours per day, or the same number of hours that laborers under his jurisdiction were working during overtime hours from February 1st to March 31, 1944, inclusive.

EMPLOYEES' STATEMENT OF FACTS: On December 16, 1943, Charles Gamache, Section Foreman, Chicago Terminal Division, was placed in charge of an extra gang employed in the Landers Yard, Chicago Terminal. On December 19th this extra gang in charge of Forman Gamache was assigned to work in the roundhouse, working sixteen hours per day. From December 19, 1943 until January 31, 1944, inclusive, Foreman Gamache was paid overtime for the same number of hours each day that the laborers, whom he supervised, were working and were paid for.

On February 1, 1944 Foreman Gamache was advised by S. N. Crowe, Engineer Supervisor, that he should not work overtime himself or turn in any time for overtime, even though the men who were working under his jurisdiction continued to work sixteen hours per day; yet, Foreman Gamache was required to instruct these laborers with respect to work to be performed during overtime hours, carry their time, and, in a general way, be responsible for their work.

The Agreement in effect between the Carrier and the Brotherhood is by reference made a part of this Statement of Facts.

POSITION OF EMPLOYEES: As stated in Employees' Statement of Facts, during the period from December 19, 1943 to January 31, 1944, inclusive, laborers of a certain extra gang in charge of Foreman Charles Gamache were working in the roundhouse at Landers Yard, Chicago Terminal Division, sixteen hours per day from 8:00 AM until 12:00 midnight, and were thus paid eight hours per day at overtime rate. Foreman Gamache was paid for overtime for the same number of hours as the men. Effective February 1, 1944 Foreman Gamache was advised by his superior, Engineer Supervisor S. N. Crowe, that the men working under his jurisdiction would continue working overtime as before but that he, Gamache, the Foreman, should not turn in overtime for himself although, as stated in the Employees' Statement of Facts, he was required to instruct the men with respect to work to be performed during overtime hours, keep their time, and was responsible for their work. These extra gang laborers in charge of Foreman Gamache continued working sixteen hours per day until March 31, 1944.

It is the position of the Employees that where a Foreman is held responsible for the work of the men under his jurisdiction when working during over-

When consideration is given to the foregoing, it is obvious that the alleged claim referred to herein is without basis under the rules of the Agreement covering employes represented by the Brotherhood of Maintenance of Way Employes and, therefore, the contention of the Committee should be dismissed and the claim denied.

OPINION OF BOARD: Owing to conflicting evidence in this record, the Division does not feel that it can render an equitable award.

FINDINGS: The Third Division of the Adjustment Board upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived hearing thereon;

That the Carrier and the Employe involved in this dispute are respectively Carrier and Employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved here in; and

That for reasons stated in the Opinion, the Division feels itself unable to render an equitable award.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 15th day of January, 1946.