Award No. 5874

Docket No. SG-5806

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John W. Yeager, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the New York, Chicago and St. Louis Railroad that:

(a) The Carrier violates the current Signalmen's working agreement when it declines to allow employes assigned to camp cars on the Chicago and Ft. Wayne Divisions to make up time for week-end trips to their homes.

(b) Each such employe assigned to camp cars on the Chicago and Ft. Wayne Divisions be reimbursed for all hours held away from their homes on week-ends since January 11, 1950 contrary to the provisions of Rule 23.

EMPLOYES' STATEMENT OF FACTS: Prior to the establishment of the shorter work week on September 1, 1949, employes assigned to camp cars as their home station were permitted to make up time lost on week-ends as provided in Rule 23, which reads:

> "Employes assigned to camp cars will be allowed to make week-end trips to their homes except in cases of emergency. Any time lost on this account will not be paid for but may be made up, by arrangement with the management, outside of regular work period at straight time rate for hours so worked. Free railroad passes will be furnished consistent with the regulations. Passenger trains or local freight trains, if available, will be stopped for such employes at the nearest station to their camp cars."

The time made up under this arrangement was accomplished by working outside of regularly assigned hours at straight-time rate of pay. The week-end time lost varied, depending on the amount of time required to make week-end trips, due to location of camp cars with respect to the employes' homes.

This dispute had its origin in a letter issued by Signal Supervisor E. Schroff which, for information of the Board, is reproduced herewith:

can be found to extend the limits of this term beyond its intended and commonly accepted meaning; that the employes have at no time made a definite and specific request on the Carrier to arrange to permit them to make up a reasonable amount of time under specific conditions that might justify such request; and that the employes are instead requesting this Board to change a clear and unambiguous rule and write a new rule with an entirely different meaning.

Claim (a) is clearly without foundation and support of the rules, and is misleading as it would indicate that time had actually been lost in making week-end trips. Week-ends are outside of established hours and as both Saturday and Sunday are rest days, it is apparent that no time has been lost. There is no provision in the agreement for making up time that is not lost.

Claim (b) is likewise without basis and is misleading as it indicates that employes have been held away from their homes on week-ends. This simply is not so. The employes are free to leave their camp cars (home station) at the close of working days on Friday and are not required to return until starting time Monday morning. Further it is the practice of the employes involved to spend the week-ends at their homes and no allegation has been made that they do otherwise.

All data submitted in support of the Carrier's position have been presented to the duly authorized representative of the employes and made a part of this particular question.

(Exhibits not reproduced.)

OPINION OF BOARD: The Agreement between the Organization and the Carrier contains Rule 23 as follows:

> "Employes assigned to camp cars will be allowed to make week-end trips to their homes except in cases of emergency. Any time lost on this account will not be paid for but may be made up, by arrangement with the management, outside of regular work period at straight time rate for hours so worked. Free railroad passes will be furnished consistent with the regulations. Passenger trains or local freight trains, if available, will be stopped for such employes at the nearest station to their camp cars."

The claim is by the Organization on behalf of unnamed signalman. It is in two parts. The basis of the claim is as to (a) that the Carrier on the Chicago and Ft. Wayne Division declines to allow the employes assigned to camp car to make up time for week-end trips to their homes. By (b) a demand is made that each employe assigned to camp cars on these Divisions be reimbursed for all hours held away from their homes on week-ends since January 11, 1950 contrary to the provisions of Rule 23.

With the emergency provision of this Rule the docket has no concern. If employes were denied rights under Rule 23 no such denial was based on the emergency provision.

Whether or not any employe was denied the right to make a week-end trip to his home after January 11, 1950 is not made known by the record. Also whether or not after January 11, 1950 any employe made a trip home and lost time thereby and was not allowed to make it up in conformity with Rule 23 is not disclosed by the record.

It follows that the claim as made may not be allowed.

Ordinarily this should and would be regarded as a final disposition of the claim. The Carrier however on the property, by evidence which is before the Division, and before the Division has made the contention that the Rule can have no effect or application since the establishment of the 40 hour

work week which allows two rest days instead of one as before. The Rule was in the Agreement before the establishment of the 40 hour work week and it has remained therein without change.

There is no evidence that the contention was enforced by the Carrier against any employe, but there is good reason to anticipate that it will be if occasion should arise, to its own detriment, should the question be ultimately decided adversely to it.

The effect of the respective presentations in this respect is to ask the Division to pass upon the question of whether or not the Rule applies to the 40 hour work week. In other words, the Division is asked to say whether or not the Rule contemplates that an employe may be entitled to lose time on Friday or Monday on account of a week-end trip home with the privilege granted by the Rule of making up the time lost outside the regular work period.

The Carrier substantially urges that "week-end" as used in the Rule is not capable of a definition which would permit an employe to leave the work before the end of the work day on Friday.

As to this it may well be said that "week-end" is a term not capable of exact significance or definition. Reference to the varying definitions in dictionaries makes this clear. In the absence of a specifically declared meaning when that term is used, resort for its meaning in a particular situation must in some measure be had to general defintions and understandings, but for the most part that meaning must be drawn from the conditions and circumstances under which the term is used. Here there is no declaration of meaning.

Before the 40 hour work week in the case of an employe with a six-day assignment with the rest day Sunday, it could not well be questioned that his week-end began with the end of the work day on Saturday and extended to the beginning of the work day on Monday. This obviously represented the intention of the parties when the Rule was agreed upon.

It is but a step, based on reason and logic, to say that when by agreement Saturday was added to Sunday as a rest day, and there being no change in Rule 23, the week-end for the employe begins with the end of the work day on Friday.

This conclusion is not violative of the definitions contained in dictionaries to which attention has been called by the Carrier. Some draw the definition within narrower limits, it is true, but in them is found one which defines "week-end" as the period from Friday night to Monday.

The conclusion therefore is that under Rule 23 and the 40 Hour Work Week Agreement the "week-end" of an employe assigned Monday through Friday is the period between the close of the work day on Friday and the beginning of the work day on the succeeding Monday.

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

That the parties to this dispute waived oral hearing thereon;

That the Carrier and Employes involved in this dispute are respectively Carrier and Employes 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 herein; and

When the Carrier declines to allow employes described to make week-end trips in the absence of emergency, the Agreement is violated. The record, however, does not sustain a violation.

AWARD

Claim denied per Opinion and Findings.

NATIONAL RAIROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 22nd day of July, 1952.