Award No. 13191
Docket No. CL-12774

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4968) that:

(a) Carrier violated the Agreement between the parties effective October 1, 1940, as amended, when it failed and refused to allow Mr. Lloyd Parlanti eight (8) hours' compensation at the time and one-half rate of Lift Truck Operator account not called and used to perform service as such on June 22, 1960, one of his rest days; and

(b) Carrier shall now be required to allow Mr. Lloyd Parlanti eight (8) hours' compensation at the time and one-half rate of Lift Truck Operator instead of pro rata rate allowed.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement bearing effective date October 1, 1940, reprinted May 2, 1955, including revisions, (hereinafter referred to as the Agreement) between the Southern Pacific Company (Pacific Lines) (hereinafter referred to as the Carrier) and its employes represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes (hereinafter referred to as the Employes) which Agreement is on file with this Board and by reference thereto is hereby made a part of this dispute.

1. At the time of this dispute Mr. Lloyd Parlanti (hereinafter referred to as the Claimant) was occupying Relief Position No. 6, Reno Freight Station, with the following schedule of assignments:

Thurs.	Check Clerk No. 41	7 A. M. to 4 P. M.	19.31	per day
Fri.	Lift Trk. Opr. No. 141	7 A. M. to 4 P. M.	2.3975	per hr.
Sat.	Lift Trk. Opr. No. 141	7 A. M. to 4 P. M.	2.3975	per hr.
Sun.	Loader No. 107	7 A. M. to 4 P. M.	2.30	per hr.
Mon.	Loader No. 107	7 A. M. to 4 P. M.	2.30	per hr.
Tues.	Rest Day			
Wed.	Rest Day			

request for eight hours' pay at time and one-half rate for each day that he has been held off the position advertised in Bulletin No. 33, and required to work second trick at Lee Street, Baltimore, cannot be sustained without upsetting a well-established policy of this Board. Punitive rates are not awarded for work not actually performed."

While the organization referred to Rules 20 (e) and 22, as follows:

"RULE 20.

(e) Where work is required by the carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe."

"RULE 22.

Employes shall not be required to suspend work during regular hours to absorb overtime."

in handling the case on the property, those rules do not provide any basis for payment at rate of time and one-half under circumstances such as involved herein.

CONCLUSION

Carrier has conclusively established by the foregoing controlling Awards that the claim for overtime rate of pay is entirely unwarranted and totally lacking in merit and asks it be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The sole issue in this dispute is whether Claimant is entitled to be paid eight hours at the rate of time and one-half for not having been called and used on his rest day, June 22, 1960. The parties agree that he was the senior available qualified employe and that he should have been permitted to perform the work. They disagree on what he should have been paid — the Carrier allowed payment of eight hours at the straight time rate; the Employes insist Claimant was entitled to the time and one-half rate.

Agreement provisions applicable here are Rules 21 and 25. They read in pertinent part, as follows:

"RULE 21.

(d) Except as otherwise provided in Rule 25, employes notified or called to perform work on Sundays, week-day off days, or holidays, shall be paid a minimum of eight (8) hours at time and one-half."

"RULE 25.

(b) Service rendered by an employe on his assigned rest day, or days, shall be paid for under the provisions of Rule 21 (d)."

Applying these rules to the facts of this particular case, the Board finds payment of the straight time rate, as allowed by the Carrier, was proper.

Claimant was on his rest day when the work was performed by another employe. Therefore, Rule 25, which clearly contemplates the performance of service by an employe on his rest day, is controlling. Under its terms "service" must be "rendered" by an employe to entitle him to the time and one-half rate set out in Rule 21.

Accordingly, the claim will be denied.

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

That the parties waived oral hearing;

That the Carrier and the 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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1964.