

 Award No. 18505
Docket No. MW-18651

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it used section laborers junior to Section Laborers W. C. Allen, V. L. Willis, T. H. Foy, G. D. Shaver and Floyd Craft to clean cars on Saturdays and Sundays. [System File MW-ROR-68-8-(A)].

(2) Section Laborers W. C. Allen, V. L. Willis, T. H. Foy, G. D. Shaver and Floyd Craft each be allowed eight (8) hours' pay at their time and one-half rate for each Saturday and Sunday subsequent to October 30, 1968, that junior laborers are used to perform the work described in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: The claimants are section laborers regularly assigned to Section Force No. 2 at Roanoke Terminal with a work week extending from Monday through Friday. In addition to performing work in connection with building, dismantling and maintaining track, their duties include cleaning cars.

Prior to the effective date of the 40 Hour Work Week Agreement (9-1-49), the Carrier's track forces were assigned to a work week extending from Monday through Saturday. Subsequent to September 1, 1949, and continuing without change until approximately October 30, 1968, track forces have been assigned exclusively to a work week extending from Monday through Friday. Whenever it was necessary to perform car cleaning or track work on a Saturday and/or Sunday, the necessary number of track laborers were called in their proper seniority sequence to perform the overtime work and were compensated therefor at their overtime rate.

On or about October 30, 1968, the Carrier issued bulletins abolishing six (6) track laborers' positions on Section Force No. 2 and simultaneously issued bulletins advertising six (6) new track laborers' positions on Section Force No. 2 with rest days other than Saturday and Sunday. The track laborers assigned to the six (6) new positions, all of whom were junior to the claimants, were thereafter used to perform car cleaning and routine track work on Saturdays and Sundays at their straight time rate of pay.

*New Employees. Hired account no bids received.

The claim here advanced to this Board contemplates the payment of eight hours at time and one-half rate to the five senior members of Section Force No. 2 for each Saturday and Sunday worked by the six junior employees named above and any others.

In a companion claim also before this Board, the Organization has requested the payment of a minimum day to the six junior employees for each rest day of their position other than Saturday or Sunday and payment of time and one-half rate for work performed by them on Saturdays and Sundays.

Letters attached, marked Carrier's Exhibits B through K, reflect the handling of the claim on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a companion claim to that heard by this Board as Docket MW-18650 which became Award 18504. We adopt the opinion therein and hold it to be binding in this case.

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 Employees involved in this dispute are respectively Carrier and Employees 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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of April 1971.