



Award No. 18909
Docket No. TE-19181

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION DIVISION, BRAC
CHICAGO AND WESTERN INDIANA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Chicago & Western Indiana Railroad, T-C 5793, that:

1. Carrier violates the agreement between the parties when on Sunday, April 27, 1969, and each Sunday thereafter it fails and refuses to properly compensate employees Goyer, Fraizer and/or their successors in accordance with the agreement.

2. Carrier shall now compensate Goyer, Fraizer and/or their successors thirty minutes at the straight time rate for the first thirty minutes of their assignment and thirty minutes at the time and one-half rate, less thirty minutes at the straight time rate already paid, for the thirty minutes worked in excess of their regular assignment, commencing on Sunday, April 27, 1969, and continuing so long as the carrier requires such service on Sunday.

EMPLOYEES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

There is an Agreement between the parties, effective September 1, 1949, as amended and supplemented July 1, 1966, which is on file with your Board and by this reference is made a part hereof.

Claim was handled on the property in the proper manner, including conference with the highest officer designated by Carrier to receive appeals, and remains declined. The Employees, therefore, appeal to your Honorable Board for adjudication.

The dispute arose because Carrier on Sunday, April 27, 1969, changed the starting time on two assignments. Carrier bulletined the two positions to begin work thirty (30) minutes later than on the other six working days of the positions.

Carrier contends that since it complied with the forty-eight (48) hours' notice in changing the one day starting time, this was all the agreement called for; therefore, the Agreement was not violated.

OPINION OF BOARD: On April 23, 1969, Carrier issued a bulletin giving notice that effective Sunday, April 27, 1969, the starting time of two positions would be thirty minutes later on Sundays than on other days of the week. This change was protested by the employees, but was carried out and continued until April 13, 1970, when uniform starting times for the two positions in question were restored.

The claim before us is that during this period the Carrier was in violation of Rule 8(a), reading:

"Regular assignments shall have a fixed starting time which will not be changed without at least forty eight (48) hours' notice to employees affected."

And that the two Claimants, being required to work, on Sundays, thirty minutes beyond the regular week-day ending time of their assignments, are entitled to payment for such thirty minute periods at the time and one-half rate in addition to the eight hours they were paid.

It is well established that rules essentially the same as Rule 8(a) prohibit what was done here. See Third Division Award 22 and Interpretation, Serial No. 1; Awards 967, 1307, 4461, 12287 and 17184. The claim, therefore, must be sustained.

However, concerning the reparation, the record is clear with respect to Claimant Goyer. But there is some confusion as to Fraizer. Both parties apparently have made mistakes in describing his assignment. The record appears to support a conclusion that he held a relief assignment and actually worked the second trick — Job No. 7 — on Sundays. If that is a correct assumption, he should be compensated as claimed during the period for each Sunday he worked. The parties can easily determine this point of fact.

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 violated.

AWARD

Claim sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

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

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