

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23331**  
Docket Number MS-23281

**Martin F. Scheinman**, Referee

PARTIES TO DISPUTE: { **J. J. Carrier**  
{ **(Soo Line Railroad Company)**

STATEMENT OF CLAIM: "**Claim** of J. J. Carrier that:

(1) During a **twenty-four** hour period, from **4 PM**, September 28 to **4 PM**, September 29, 1978, the **Carrier** required Claimant to take a company physical examination in addition to his regular eight-hour assignment; **Carrier** refused to compensate Claimant for time in excess of eight hours in violation of Rule **49(a)** of the **SOO-BRAC** Clerks' Agreement.

(2) **The** Carrier shall now be required to compensate Claimant for five hours and twenty minutes, time and one-half, at the Assistant Chief Yard Clerk's rate for September 29, 1978."

OPINION OF BOARD: Claimant, **J. J. Carrier**, claims five hours and twenty minutes at **time** and one-half at the Assistant **Chief** Yard Clerk's rate for September **29, 1978**. Claimant argues that during a twenty-four hour period covering September **28** through September 29, 1978, he was required to take a physical examination in addition to his regular **eight**-hour assignment. For this reason, Claimant alleges that he **is** entitled to compensation under the terms of Rule 49(a) of the Agreement which states:

"**RULE 49. OVERTIME**

(a) Except as otherwise provided in Rule **52** (Call rule), time in excess of eight **(8)** hours, exclusive of the meal period, on any day **(24-hour)** period) will be considered overtime and paid for on the actual minute basis at the rate of **time** and one-half."

An analysis of the record **indicates that the** claim must be denied. Claimant has made a series of assertions which have no factual basis in the record e.g. that **Carrier's** decision to have him take a physical examination was arbitrary or discriminatory. Similarly, conclusions raised by Claimant **in his** submission to this Board are not supported by the evidence in the record.

For Claimant to be sustained, he would have to establish ~~some specific~~ schedule rule or practice on the property requiring compensation for time spent in taking a physical examination.' He has failed to establish any such rule. It is well settled that off-duty ~~time~~ spent for the purpose of taking a physical examination is not "work" for which compensation is required. See Awards ~~14049~~, 3302, 17539. These Awards follow a long line of Awards ~~indicating that~~ Carrier has discretion ~~to order~~ a physical ~~examination of an~~ **employee** who it believes has a possible physical disqualification. See, for ~~example~~, Awards 6850 and 8035.

We will deny the claim.

**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.**

A W A R D

**Claim** denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: *A. W. Parker*  
Executive Secretary

Dated at Chicago, Illinois, this **19th** day of **June 1981**.

