

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24832
Docket Number CL-24619

Martin F. Scheinman, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: ((Maine Central Railroad Company-Portland Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9597)
that:

1. Carrier violated the Agreement between the parties on May 24, 25, 26, 27 and 28, 1980, account Claimant, while on vacation, was not compensated for twenty (20) minutes at time and one-half each day.

2. Carrier shall compensate P. B. Timberlake, Towerman-Operator, PT Tower, Portland, Maine, twenty (20) minutes at time and one-half for May 24, 25, 26, 27 and 28, 1980, while on vacation.

OPINION OF BOARD: On May 24, 25, 26, 27 and 28, 1980, Claimant P. B. Timberlake was on vacation from his regular assignment as Towerman-Operator, PT Tower, Portland, Maine. Prior to Claimant's vacation he had often worked during his lunch period. Specifically, from January 1979 to May 1980, Claimant was compensated for twenty minutes of overtime during his lunch period on all but twenty-five working days. However, Claimant was not compensated for the twenty (20) minute lunch period while he was on vacation in May 1980.

The Organization contends that Carrier's failure to compensate Claimant for his twenty minute lunch period while on vacation, violates Article 7 of the National Vacation Agreement. That Article reads, in relevant part:

"7(a) An employee having a regular assignment will be paid while on vacation the daily compensation paid by the Carrier for such assignment.

7(b) An employee paid a daily rate to cover all services rendered, including overtime, shall have no deduction made from his established daily rate on account of vacation allowance made pursuant to this agreement."

The Organization points out that Claimant worked his lunch period on virtually every work day for over a year immediately prior to May 1980. In the Organization's view, such overtime work is regular and not casual. Citing numerous awards, the Organization concludes that regular overtime is to be compensated for when an employee is on vacation. Thus, the Organization asks that the claim be sustained.

Carrier, on the other hand, suggests that for overtime to be regular, it must occur daily and as a result of predictable circumstances. Here, Claimant did not work overtime every day, In addition, such work arose as a result of radio or telephone calls, which are not predictable. Accordingly, Carrier asks that the claim be rejected.

The relevant facts of this dispute are virtually identical to those in Award No. 24831 decided herewith. There we found that for overtime to be regular, it must be "authorized for a fixed duration each day of a regular assignment, bulletined or otherwise." The overtime in the instant dispute was not authorized for a fixed duration each day of Claimant's regular assignment. Accordingly, for the reasons set forth in Award No. 24831 the claim must fail.

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:


Nancy J. Fever -Executive Secretary

Dated at Chicago, Illinois, this 16th day of May, 1984