

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10367) that:

1. Carrier violated the effective agreement when it called furloughed employes to perform work in excess of eight (8) hours in a twenty-four hour period and failed to compensate them at the time and one half rate for such work.

2. Carrier shall now compensate the following employes for the difference between eight (8) hours' pay at the time and one-half rate and eight hours' pay at the straight time rate for the dates set forth therein:

<u>CLAIMANT</u>	<u>POSITION</u>	<u>DATE</u>
J. Ha	422	April 19, 1988
S. Mally	383	April 8, 1988
S. Mally	367	April 11, 1988
S. Mally	423	April 21, 1988
S. Mally	423	April 23, 1988
M. Cook	361	April 7, 1988
M. Cook	430	April 23, 1988
M. Cook	391	April 25, 1988
M. Cook	361	April 29, 1988
K. Swiderski	383	April 19, 1988
K. Swiderski	202	April 30, 1988
E. Wojcik	385	April 3, 1988
E. Wojcik	201	April 5, 1988
C. Granitz, Jr.	11	April 9, 1988
C. Granitz, Jr.	343	April 13, 1988
C. Granitz, Jr.	341	April 30, 1988

3. Carrier shall further compensate the senior available employee, furloughed in preference, eight (8) hours' pay at the appropriate rate, (straight time if furloughed or time and one-half if regularly assigned) for each of the dates set forth in Claim No. 2, above."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Organization filed a claim on the Claimants' behalf, contending that, on the dates set forth in the claim, each of the Claimants were called from furlough to fill short vacancies and/or perform extra work, then were recalled within the same twenty-four hour period for another eight-hour tour of duty. The Organization contends that the Carrier violated Rule 45 of the effective Agreement, the overtime provision, when it paid the Claimants at the straight-time rate for their second tours of duty, rather than at the time and one-half rate. The Carrier denied the claim.

This Board has reviewed the record in this case and we find that the Carrier violated the Agreement when it called furloughed employees to perform work in excess of eight hours in a twenty-four hour period and failed to compensate them at the time and one-half rate for such work.

This Board finds that any work performed in excess of eight hours in a twenty-four hour period is compensable at the overtime rate. This Board agrees with the Organization's position that the twenty-four hour period commences with the beginning of the tour of duty when the employee first begins work, and one should not pay attention to what day of the week it is but rather to the twenty-four hour period in determining a "day." This Board agrees with Third Division Award 687 which held that:

"The disposition of this dispute, accordingly, turns upon the interpretation that is placed upon the word day. The petitioner insists that it means a twenty-four hour period computed from the starting time of a previous assignment. The Carrier contends that the word can only mean a calendar day.

While it is admitted that the word day in its more technical sense does mean a calendar day beginning and ending at midnight, it is obvious that it has other less technical meanings; and its meaning in a

given situation must be determined in view of the circumstances of that situation. The Division is of the opinion that in computing a tour of duty within the meaning of Rule 49, the word should be taken to mean a period of twenty-four hours computed from the beginning of a previous assignment. If this were not so, the Carrier would be able to assign extremely inconvenient hours of work."

See also Third Division Awards 2030, 2053, 5414, and 14927.

With respect to the amount of payment at the overtime rate, this Board finds that the Claimants should only be paid overtime for the amount of time over eight hours which they worked within the twenty-four hour period. For example, the record reveals that Claimant Cook worked on April 7, 1988, from 8:00 A.M. to 4:00 P.M. Claimant Cook then returned to work on April 8, 1988, from 6:05 A.M. to 2:05 P.M. This Board finds that Claimant Cook is to be paid the difference between the overtime rate and his regular rate for one hour and fifty-five minutes for his work from 6:05 A.M. to 8:00 A.M. on April 8, 1988. The Organization has requested overtime for the full eight hours and we reject that part of the claim.

Claim sustained in part. The Carrier must compensate the Claimants for the difference between their overtime rate and their regular rate of pay for the period of time that they worked in excess of eight hours in a twenty-four hour period. This Board denies that part of the claim which requests further compensation of the senior available employee as set forth in part three of the claim.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.