

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33912
Docket No. MW-32311
00-3-95-3-143**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(The Burlington Northern and Santa Fe Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier bulletined and assigned a water service mechanic position (No. 61071) at the Northtown Diesel Shop to work a Saturday through Wednesday work week with Thursday and Friday designated as rest days beginning July 12, 1993 and continuing (System File T-D-662-B/MWB 93-11-09K)**
- (2) As a consequence of the aforesaid violation, Claimant W.C. Blechinger shall be allowed ‘...eight (8) hours time and one-half for each Saturday and Sunday he works beginning July 12, 1993 and continuing until the Carrier ceases to violate the Agreement by properly assigning a five (5) day position with Saturday and Sunday rest days.’”**

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

The Northtown Diesel Shop has at all times material herein operated on a seven day per week/twenty-four hour basis and is charged with the task of keeping locomotives running and ensuring that they comply with all safety standards. In doing so the Carrier has staggered workweeks so that in some instance rest days are week days and in others they are weekend days. However, some water service personnel, including Water Service Mechanics have been regularly assigned a Monday through Friday work week.

On June 16, 1993 the Carrier bulletined a water service mechanic position (#61071) with a workweek of Saturday through Wednesday and Thursday and Friday as rest days. In addition, the bulletin advertised that the position in question would serve as a Water Service Mechanic on the first three days and as relief for the Water Service Foreman on the last two days of the period in question. The Claimant bid on the position and was awarded the post.

The Organization contends that the Carrier violated Rule 24 of their Agreement which requires that “. . . so far as practicable the days off shall be Saturday and Sunday” when it bulletined and filled the position in question with days off of Thursday and Friday. In support of this position it points out that the work of the Water Service Mechanic was, is, and remains the same as it was before when it was scheduled with weekend days off. The Carrier on the other hand points out to the continuous operation of the Northtown Diesel Shop and further argues that the position in question is a new seven day position which, under Rule 24(e), at best carries a presumption in favor of weekend days off.

We therefore think that resolution of this dispute turns on a comparison or contrast of the Water Service Mechanic position, with a Monday through Friday schedule, and the newly bulletined position. In doing so we find that the work of the new position is the same as that of the Water Service Mechanic only on the three days in question. Moreover, on the other two days not only does the bulletined position differ from that with a historical and presumptively appropriate week day schedule, but it also serves as a relief for another position which is by its very operational nature a seven day

position. Thus, the position is indeed new and different from that of a strictly Water Service Mechanic and reliance solely on the historical schedule of that position is misplaced.

There remains then only the question whether there was an operational requirement for the position that would justify a schedule other than Monday through Friday. As noted above the Northtown Diesel Shop operates on a continuous basis and in combination with the fact that the position in question was to relieve a seven day position there would appear to be a legitimate business objective in scheduling the new position as it did.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 24th day of January, 2000.