

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
THE DELAWARE AND HUDSON RAILROAD**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the following employees employed on Sections 1, 2, and 3, be paid the time and one-half rate for the ninth hour for work performed north of Windsor, New York, on April 24, 25, and 30, 1940, instead of straight time rate which they did receive:

Section 1

Sanford Furman
Charles Wieble

Section 2

Mark Killam
Arthur Smith
Theodore Theodoroff
Almond Spoor
John Walsh

Section 3

Claude Avery
Myrle Burman
Frank Stalker
John Stanton

EMPLOYEES' STATEMENT OF FACTS: The employees whose names are listed in the Statement of Claim performed work for the Carrier on April 24, 25, 29 and 30, 1940. The work to which they were assigned was at a point north of Windsor, New York.

Claimants were regularly assigned to the following sections: 1, 2 and 3—Pennsylvania Division.

On the dates shown above claimants were instructed by their superior officer to leave their regular section to perform work north of Windsor, New York. On each of the dates shown they were required to work nine hours. Pay was allowed on a pro rata basis for all time worked.

On each of said dates claimants were working away from their headquarters, thus necessitating the use of a company track motor car to transport themselves and their tools from their headquarters to the point where work was being performed. Likewise the employees were required to return by track motor car to their headquarters each day.

An agreement is in effect between the parties bearing effective date of July 1, 1939, which, by reference, is made a part of this Statement of Facts.

POSITION OF EMPLOYEES: The agreement in effect between the parties contains the following rule, which is cited in support of the Employees' claim:

"OVERTIME—TEMPORARY ASSIGNMENTS—CALLS

Rule 18. (a) Time worked following and continuous with the regular eight hour work period shall be paid for at the rate of time and one-half on the actual minute basis. * * * ."

The Carrier contends the rule concerned in this claim is very plain and is not susceptible to any interpretation such as requested by the organization. It is further contended that the interpretation requested by the organization would be inconsistent with other rules of the agreement. Carrier respectfully requests claim be denied.

OPINION OF BOARD: The subject of this dispute is identical with that contained in Docket MW-2238, Award 2304, and is governed thereby.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 claimants were properly compensated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 24th day of September, 1943.