

Award No. 11460

Docket No. CL-10965

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Martin I. Rose, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that:

Carrier compensate R. W. Sherman, occupant of Rate Clerk's position at E. St. Louis, Illinois, for a day's wage loss amounting to \$20.00 on April 12, 1958.

EMPLOYEES' STATEMENT OF FACTS: On Wednesday, April 9, 1958, claimant was advised by Freight Agent Bouchard at E. St. Louis: "Effective this week end your rest days will be Saturday and Sunday. Your assignment will be Monday through Friday, effective April 14, 1958."

Prior to April 14, 1958 the claimant's designated rest days were Sunday and Monday with a work week assignment of Tuesday through Saturday.

As a result of the foregoing, Sherman lost a day's pay on April 12, 1958 as readily disclosed by the following tabulation:

Date: Mar. 30	31	Apr. 1	2	3	4	5	Days worked within the work week
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	
0	0	x	x	x	x	x	5
Apr. 6	7	8	9	10	11	12	
0	0	x	x	x	x	0	4
Apr. 13	14	15	16	17	18	19	
0	x	x	x	x	x	0	5

Note: x — Days worked
0 — Rest day

"The term 'work week' for unassigned employes shall mean a period of seven consecutive days starting with Monday."

Carrier has shown conclusively that the claim is devoid of merit, and should be denied.

Carrier reserves the right to make an answer to any submission of the Organization.

OPINION OF BOARD: Claimant was assigned to the position of rate clerk, effective June 11, 1952, which was bulletined to work Wednesday through Sunday, with rest days Monday and Tuesday. Effective September 28, 1954, pursuant to advance notice, Claimant worked this position Tuesday through Saturday, with rest days Sunday and Monday. On April 9, 1958, Claimant was advised by the Freight Agent that:

"Effective this week-end, your rest days will be Saturday and Sunday, your assignment will be Monday through Friday, effective April 14, 1958."

The Employees contend that as a result of this change, Claimant lost a day's pay on April 12, 1958, contrary to the requirements of the applicable agreement.

Carrier contends that no loss of pay or violation of the agreement occurred for the reason that under Rule 42 (i) and the bulletin of 1952 Claimant's workweek began on Wednesday which day continued to be the first day of his workweek for the purpose of computing whether he worked five days or less than five days in his workweek so long as he remained on the position.

Rule 44 (c) states that:

"A change in the regular assigned rest days of an assignment will not necessitate re-bulletining the position involved."

Considering this Rule and Rule 42 (i), it cannot be said that despite the changes in rest days in 1954 and 1958, the workweek of Claimant's position continued unchanged from 1952 and remained as it was then. The weight of authority in this Division establishes that the issue presented by this claim should be resolved by a sustaining award. See Awards 10517, 8868, 8144, 8103, 7324. No reason has been shown on the record here to justify a contrary result.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May 1963.