

Award No. 14261
Docket No. CL-13010

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**THE NEW YORK CENTRAL RAILROAD
(Eastern District, Boston and Albany Division)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5030) that:

1. Carrier violated the current Clerks' Agreement, effective January 1, 1957, as amended, when on September 12, 1960 it sent nine Freight Handlers, Kneeland Street Freight House, Boston, Massachusetts home at 3:00 P.M., DST, at the time the employees were scheduled to go to lunch, and after the employees had worked for four hours, allegedly due to hurricane warnings and existing stormy conditions; and

2. That employees G. Pelecky, G. Leahy, M. J. Mahoney, A. McWhinnie, P. Landrum, C. Leeman, J. Stuart, P. Glynn and W. Chase shall each be additionally compensated four (4) hours' pay for September 12, 1960.

EMPLOYEES' STATEMENT OF FACTS: On September 12, 1960 employees G. Pelecky, G. Leahy, M. J. Mahoney, A. McWhinnie, P. Landrum, C. Leeman, J. Stuart, P. Glynn and W. Chase reported for work at 11:00 A.M., DST, at Kneeland Street Freight House, Boston, Massachusetts, as Freight Handlers. These employees' assignment was from 11:00 A.M., DST to 8:00 P.M., DST, Monday through Friday, lunch period 3:00 P.M., DST to 4:00 P.M., DST, and days of rest Saturday and Sunday.

At 3:00 P.M., DST, as the employees were getting ready to go to lunch, they were notified by Carrier that they were dismissed due to the threatened hurricane and existing stormy conditions, and were compensated only 4 hours' pay for the day.

In addition to the above listed force of Freight Handlers, there were other Freight Handlers, 52 in number, with hours 7 A.M.-4 P.M., DST, and

8:00 A.M. and prior thereto. This is indicative of the adverse working conditions and because of the weather conditions the amount of necessary time spent relocating the freight for protection from the storm.

A claim for four hours' additional pay in favor of the nine freight handlers who started their tour of duty at 10:00 A.M. and were released at 2:00 P.M. was presented to the Carrier under date of October 2, 1960 and thereafter progressed to its highest appeals officer. The complete exchange of correspondence is reproduced as Carrier's Exhibits A through K, inclusive.

(Exhibits not reproduced.)

OPINION OF BOARD: These Claimants were regularly assigned to work 10:00 A.M. to 7:00 P.M., with lunch hour at 2:00 P.M. They were sent home at 2:00 P.M., and paid for 4 hours. Had they worked one minute beyond that hour, they would have received their basic 8 hour pay.

Carrier's reliance on Rule 19 does not support its position. The weather situation did not cause any of the other 34 freight handlers to be sent home before the end of their assignment. Some were dismissed before the end, but received a full day's pay; others were dismissed at the end of their assignment, and, of course, received a day's pay. Carrier's action was capricious, and a violation of Rule 19.

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 24th day of March 1966.

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