

Award No. 18410
Docket No. SG-18491

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SEABOARD COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company:

On behalf of Signal Maintainer G. K. Clayton, Ocala, Florida, for two (2) hours and fifteen (15) minutes overtime on July 18, 1968, account attending court at Ocala, Florida, at request of Seaboard Coast line Railroad Company.

EMPLOYEES' STATEMENT OF FACTS: Claimant is a signal maintainer regularly assigned to work from 8:00 A. M. to 5:00 P. M. Monday through Friday, with headquarters at Ocala, Florida.

As is indicated by Brotherhood's Exhibit No. 1, signal maintainer G. K. Clayton was notified to be present and appear as a witness on behalf of the Seaboard Coast Line Railroad July 18, 1968. As is also indicated by Brotherhood's Exhibit No. 1, Mr. Clayton contacted Claim Agent Carlton and did appear in court from 5:00 P. M. until 7:00 P. M.

As a means of transportation to attend the Court session, Mr. Clayton was instructed to use the Company truck. Mr. Clayton therefore was at the office of Claim Agent Carlton at 4:30 P. M., as instructed. He parked the Company truck on Seaboard Coast Line property, and attended the Court with the Claim Agent until 7:00 P. M. He then drove the Company truck home.

As will be observed by Brotherhood's Exhibit No. 2, Mr. Clayton filed an overtime claim on the prescribed form for 2 hours and 15 minutes representing the time between the hours of 5:00 and 7:15 P. M., July 18, 1968, when he performed service outside the hours of his regular tour of duty on instructions from and on behalf of the Carrier. As will be observed from Brotherhood's Exhibit No. 3, Mr. Clayton was notified August 2, 1968, by Supervisor of Communications and Signals A. W. Wilson that overtime is not due for attending court. The applicable Rules of the Agreement in this dispute are Rules 16, 24 and 57, and are quoted below for ready reference.

"RULE 16 — Overtime and Calls

The hourly rates named herein are for an eight (8) hour day. All service performed outside of the regularly established working period shall be overtime and paid for as follows:

Therefore, there is no contractual support for the claim and it is declined."

Assistant Vice President - Personnel to General Chairman, February 17, 1969.

"Confirming conference discussion with Mr. Dick on January 28th concerning claim in behalf of Signal Maintainer G. K. Clayton, Ocala, Florida, for payment of two hours and fifteen minutes overtime on July 18, 1968, account attending court at Ocala.

You did not present anything new in support of the claim, and we reiterated our position that based on the specific provisions of Rule 24 there was no merit to the claim. Therefore, you were advised there was no reason for changing our decision of December 23, 1968."

Rule 24, Attending Court, of the working agreement reads as follows:

"An employe, at the request of management, attending court, inquests, or appearing as witnesses for the railroad, will be furnished transportation and will be allowed compensation equal to what would have been earned on his work day had such interruption not taken place, and in addition, necessary actual expenses.

Employes attending court, inquests, or appearing as witnesses under this rule on rest days and holidays, which would require payment under this rule had he worked on a work day, shall be compensated to the same extent as prescribed in the above paragraph for each day so held or used, except at the overtime rate.

Any fees or mileage accruing will be assigned to the railroad."

OPINION OF BOARD: The basic facts are not in dispute. At the request of the Carrier, Claimant reported to the Court on July 18, 1968 and testified as a witness for the Carrier. His claim is for overtime compensation for the time he attended the hearing. He drove a Carrier owned truck to and from the courthouse.

Employes' position is predicated on overtime Rule 16 which, in paragraph (a) provides that: "Overtime hours following and continuous with regular working period shall be computed on the actual minute basis and paid for at the rate of time and one-half." Carrier argues that under Rule 24 no compensation is required. That Rule reads:

"An employe, at the request of management, attending court, inquests, or appearing as witnesses for the railroad, will be furnished transportation and will be allowed compensation equal to what would have been earned on his work day had such interruption not taken place, and in addition, necessary actual expenses.

Employes attending court, inquests, or appearing as witnesses under this rule on rest days and holidays, which would require payment under this rule had he worked on a work day, shall be compensated to the same extent as prescribed in the above paragraph for each day so held or used, except at the overtime rate.

Any fees or mileage accruing will be assigned to the railroad."

July 18, 1968 was a regular scheduled work day for the Claimant and he worked and he was paid for his scheduled eight (8) hours on that date. He attended the court hearing after he completed his tour of duty. He used a Carrier truck for transportation. No claim is made for "necessary actual expenses."

Rule 16 is a general rule while Rule 24 is a specific rule. In the application of contractual provisions a specific rule takes precedence over a general rule. Rule 24 specifically deals with compensation for attending court sessions. That is much more definite and specific than Rule 16 which is concerned with general provisions for overtime pay.

And no provision is made in Rule 24 for overtime pay. Had the parties intended to cover pay for hours in court after the completion of the scheduled tour of duty, it would have been so provided in the rule. Instead, it merely says that the employee attending court as a witness "shall be compensated in an amount equal to what would have been earned on his work day had such interruption not taken place * * *" Claimant's work day was not interrupted and his earnings were not depleted because of his court attendance.

A similar finding was made in Award No. 18143 wherein the same parties and the same rules were involved.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schultz
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1971.