

Award No. 18432
Docket No. MW-18816

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
THE ILLINOIS CENTRAL RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed to call and use Jim Exum to perform truck driving work on dates hereinafter specified. (Case Nos. 606 MofW/T-36-T-68; 622 MofW/T-39-T-69; 638 MofW/T-41-T-69; 650 MofW/T-42-T-69; 657 MofW/T-51-T-69; 667 MofW/T-43-T-69 and 669 MofW/T-53-T-69).

(2) Jim Exum now be allowed pay for a number of hours equal to that expended by others in the performance of this work, with pay at his straight time rate accruing to time expended within his regular assigned work period and at his time and one-half rate for time expended outside of his regular assigned work period:

Claim dates are:

September 19 and 30, 1968
October 1, 7, 8, 10, 11, 14, 15 and 16, 1968
January 17, 18 and 26, 1969
February 1, 8, 9, 15, 16, 19, 22 and 23, 1969
March 8, 11, 17, 21 and 29, 1969
April 15, 27 and 29, 1969
May 12, 24, 29 and 31, 1969
June 6, 17, 18 and 21, 1969
July 2 and 22, 1969.

EMPLOYEES' STATEMENT OF FACTS: Claimant Exum is regularly assigned to a work week extending from Monday through Friday with Saturdays and Sundays designated as rest days. His regular assigned hours are from 7:30 A. M. to 4:00 P. M. exclusive of a thirty (30) minute meal period.

Claimant Exum was assigned to drive the first truck this Carrier placed in service within the Memphis Terminal area. Since that time, he has customarily and traditionally been called and used for all truck driving work that was required to be performed in the terminal area during overtime hours as well as during straight time hours for which he was available. On the various dates set forth within our Statement of Claim, the Carrier called and

his full shift plus three hours overtime. He was not available to perform this work.

The correspondence is attached as Company's Exhibits B through H.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim represents seven separate claims which have been consolidated in this dispute. The Organization contends that in each of the seven instances, Carrier violated the Agreement because it did not allow Claimant, the senior truck driver at Memphis, Tennessee, to perform truck driving work on overtime. Carrier contends that prior to June, 1966, Carrier had only one truck and only one truck driver, which was used by five (5) section gangs and one extra gang in the Memphis area; that subsequently and periodically, Carrier purchased four additional trucks which were assigned to the various gangs and assigned other drivers to each of the trucks as they were acquired; that because of the acquisition of the additional trucks, Claimant's work decreased proportionally and that he is used only on two sections, South Yard and Iowa Yard with seniority only on Gang #13 which is assigned to South Yard. Carrier further contends that the Claimant failed to sustain his burden of proof that because of past practice, Claimant was entitled to the involved work on overtime.

After a careful review of the submissions, including the various exhibits, this Board finds that Claimant was not assigned to, nor did he work on but one section. Carrier has the right to use truck drivers off their assigned territories in compliance with the Agreement, but the drivers do not have the right to assert seniority rights off their gang. This claim is without merit.

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1971.

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