

Award No. 18502
Docket No. CL-18649

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6723) that:

1. The Carrier violated the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees currently effective Agreement when on date of July 24, 1968, they called and used Clerk P. J. Wright at Hinkle, Oregon on her rest day to perform service on Job No. 17 and compensated her in the amount of only two (2) hours at time and one-half rate instead of compensating her in the amount of five (5) hours and twenty (20) minutes as provided for a rest day or holiday call under Rules of the Agreement.

2. Carrier shall now be required to pay Clerk P. J. Wright in the amount of three (3) hours and twenty (20) minutes at the rate of time and one-half of IBM Job No. 17 in addition to the amount already paid her for the date of July 24, 1968.

EMPLOYEES' STATEMENT OF FACTS: Clerk P. J. Wright is a Clerk employed by the Union Pacific Railroad Company at Hinkle, Oregon. P. J. Wright holds Class one (1) seniority date of December 13, 1966 on Station Clerks Roster No. 86-01 (Stations-Umatilla to Huntington, Oregon). By virtue of her seniority, Clerk P. J. Wright was assigned to and working a position with rest days of Tuesday and Wednesday. July 24, 1968 fell on Wednesday, the second rest day of the week for Claimant P. J. Wright.

On date of July 24, 1968, Clerk Van Zante, holding Job No. 18, laid off account of sickness and Clerk P. J. Wright was called to work the position from 12:00 Midnight to 8:00 A.M. that day. Clerk Wright was properly paid for her rest day service on this position under the application of Rule No. 41, Section (k) (Revised July 15, 1969), which covers service where an employee is called to perform work on a position on her rest day and where the regular incumbent does not work. Rule No. 41, Section (k) is here reproduced for your ready reference.

OPINION OF BOARD: Claimant held regular position and assignment as Relief Position No. 3 at Hinkle, Oregon, with assigned rest days of Tuesday and Wednesday. On July 24, 1968, a Wednesday, the second rest day of the week for Claimant, Claimant was called to work on Job No. 18 for the reason that the incumbent of Job No. 18 laid off on account of sickness. Claimant worked the position from 12:00 Midnight to 8:00 A.M. that day, and was paid her rest day service under Rule 41(k). At 10:00 P.M. on July 24, 1968, the incumbent of IBM Job No. 17 laid off for sickness while on duty. Two other clerks were called to perform service on Job No. 17, but rejected the opportunity to work and Claimant was again called to work on Job No. 17 from 10:00 P.M. to 12:00 Midnight. The Organization contends that this work was performed under Rule 39(b) of the Revised Clerks' Agreement, which provides that an employee called to work on their rest day and specified holidays will be paid a minimum call of 5 hours and 20 minutes; and that Rule 39(b) is separate and apart from Rule 41(k). Carrier compensated Claimant in the amount of 2 hours at the time and one-half rate. The Organization contends that Claimant should have been paid 5 hours and 20 minutes under Rule 39(b). Carrier contends that payment was properly made in compliance with Rule 41(k) and Section (a) of Clerks' Rule 39.

It is the opinion of this Board that Claimant received two separate calls and did not have a continuous shift. Therefore, Rule 39(b) is applicable and Claimant is entitled to be paid for 5 hours and 20 minutes. Wednesday, July 24, was not a workday for Claimant, and, therefore, the Rule 39(a) is not applicable. Rule 39(b) concerns itself with rest day calls, which sets it apart from Rules 39(a) and (c). Therefore, this claim will be sustained.

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 9th day of April 1971.

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