

Award No. 18524

Docket No. MW-18932

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

SEABOARD COAST LINE RAILROAD COMPANY

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

(1) The Agreement was violated when the members of System Grading Force No. 8666 were required and/or permitted to work in excess of 40 hours per week during certain weeks beginning April 7, 1969 and were paid at straight time rates for the time worked in excess of 40 hours on such weeks. (System File 12-38/C-4 SGF 8666).

(2) Messrs. W. G. White, H. E. Parker, M. M. Shaw, W. R. O'Berry, M. W. Boan, C. G. Fennell, Jr., T. C. Peirson, C. A. Blackmon, W. A. Moore, Jr., E. L. Livingston, G. Mott, J. Copeland and/or their successors be paid the difference between what they should have been paid at their respective time and one-half rates and what they were paid at their respective straight time rates for all time worked in excess of 40 hours in any week during the period beginning April 7, 1969 and continuing until the violation referred to in Part (1) ceases.

EMPLOYES' STATEMENT OF FACTS: The facts pertinent to the instant dispute were partially set forth within the letter of claim presentation which reads:

LETTER "A"

"June 5, 1969

C-4
SGF No. 8666

Mr. J. M. Moore, Division Engineer
Jacksonville Division
Seaboard Coast Line Railroad Company
3019 Warrington Street
Jacksonville, Florida 32205

Dear Mr. Moore:

The following claim is presented.

time by an employe outside of the regular work period 'at no additional expense to the Company.' Rule 38 is a special rule relating to week end visits home by floating gang employes and is governing over general Rule 27 in the specific matter of week end visits home.

It was never intended that Rule 38 have any such restriction as you are contending. It is a rule designed for the benefit of the employes assigned to floating gangs so they could get home and be with their families a reasonable amount of time. In this case the work schedule referred to was adopted at the request of the majority of the employes on the gang who lived on the north end of the railroad while the gang was working at Indiantown, Florida (near West Palm Beach), who would otherwise have very little time at home on the week end account of the distance to travel and the passenger train schedule. It was recognized in adopting Section 2 of Rule 38 that the best way to resolve the matter of these employes making up time would be by vote of the majority of the men in the gang. It would be almost impossible to get a unanimous vote on such a matter, and it is pertinent to point out that the two men voting against the make-up time schedule resided in Florida.

In this case you are seeking payment by the Carrier for an unjustified penalty payment for complying with the provisions of Rule 38 and the wishes of almost all the employes on the gang, even including penalty payments to the employes who voted for the make-up time schedule and who, we feel sure, did not initiate such claim for penalty payment. Also, we do not understand the dates you have shown on which the gang allegedly worked more than two hours make up time.

For the reasons outlined the claim is without merit and is accordingly declined."

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

This Division of the Adjustment Board has jurisdiction over the dispute involved herein;

This dispute was submitted ex parte by the complainant party, and hearing was waived. Under dates of April 13, 1971 and April 16, 1971, the parties addressed formal communications to the Secretary of the Third Division requesting withdrawal of this case from further consideration by the Division, which request is hereby granted.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of April 1971.

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