

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21267
Docket Number CL-21161

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Lake Superior Terminal and Transfer Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood, GL-7826, that:

1. Carrier violated the provisions of the parties' Working Agreement effective December 1, 1951, when it refused to compensate nine (9) clerical employees at Superior, Wisconsin, two hours' overtime each for attending safety classes on January 22 or January 23, 1974.

2. Carrier shall now be required to compensate Elmer Haven, Michael Kelly, Helen Strande, Joseph Eibon, Le Roy Hanson and Mae Hanson two hours' overtime for January 22, 1974; James Powers, George Spaniol and Sue Carlson two hours' overtime for January 23, 1974.

OPINION OF BOARD: In this dispute Claimants attended safety classes outside of their assigned hours; their claims are based on either the overtime rule of the Agreement or Rule 38 which pertains to being notified or called for work not continuous with the regular work period.

The issue herein is not new to the industry or to this Carrier and Organization. It has been held consistently that there are two exceptions to the requirement that employees be paid for time spent at the Carrier's behest: when the time spent is of primary benefit to employees (such as classes on operating rules) or when such time spent involves a mutuality of interest. This principle is well expressed in Award 10808, which is one of the leading cases on this subject:

"At the outset, we are of the opinion that any time of the employee directed by the Carrier is work or service, with certain exceptions. Two exceptions are where such time is for the primary benefit of the employee and in cases where mutuality of interests exists. Awards have held that classes on operating rules and safety rules are such exceptions. We are not inclined to enlarge upon those awards."

It is noted that in Award No. 24 of Public Law Board No. 194 which dealt with the identical issue, the Board held that attendance at a safety meeting outside of regular working hours did not warrant compensation on the same grounds as that enunciated above. In an Award involving these same parties, Award No. 7, Special Board of Adjustment, the Board held, inter alia:

"It is true that in this Industry certain kinds of activities or functions such as attendance at Investigations or safety rule classes or operating rule classes, in the absence of a contract provision covering payment for such attendance, are not considered compensable duty, much less compensable at premium rates of pay."

Although we appreciate Petitioner's concern for the extra time spent by Claimants in attending the short film, we cannot deal with this issue of equity. We have no basis to overturn the multitude of Awards which have consistently held that attendance at classes such as that at issue herein does not constitute "work" as defined in the Agreement.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1976.