

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21351
Docket Number CL-21332

Dana E. Eischen, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (

(Atlanta Joint Terminals

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood, GL-7988, that:

1. Carrier violated Rule 35 (e) and other rules of the Agreement when it failed and refused to properly compensate B. A. Thebaut, Jr. for service performed on May 25, 1974.

2. Carrier shall be required to compensate Claimant B. A. Thebaut, Jr. eight (8) hours at one and one-half times the pro rata rate of his assignment May 25, 1974.

OPINION OF BOARD: The Claimant herein was regularly assigned as third shift assistant chief yard clerk, hours 11:30 P.M. to 7:30 A.M., with Fridays and Saturdays as rest days. He was instructed by Carrier to appear as a witness for the Carrier in an investigation, and was in attendance at the investigation from 10:00 A.M. to 10:35 A.M., Saturday, May 25 for which claim is made for eight hours at time and one-half rate.

In the handling on the property the Petitioner relied upon subparagraphs (c) and (e) of Rule 35, which provide:

"(c) Employees worked more than five days in a work week shall be paid one and one-half times the basic straight time rate for work on the sixth and seventh days of their work weeks, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furloughed list, or where days off are being accumulated under paragraph (g) of RULE 32 (WORK WEEK)."

"(e) Service on Rest Days--Employees required to perform service on their assigned rest days within the hours of regular week day assignments shall be paid at rate of time and one-half with a minimum of eight (8) hours."

There is no doubt that Claimant's attendance at the investigation from 10:00 A.M. to 10:35 A.M. on Saturday, May 25, 1974 was service performed on a rest day but it was not "within the hours of regular week day assignment" pursuant to Rule 35 (e). We find no provision in the Agreement requiring a minimum payment of eight hours at time and one-half for such service except when performed within the hours of regular work day assignment. We will, however, sustain the claim to the extent provided in Rule 35 (g), i.e., a minimum allowance of two hours at overtime rate.

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 to the extent indicated in the Opinion.

A W A R D

Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1976.

