NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21911
Docket Number CL-21604

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes
(Kansas City Terminal Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8136) that:

(a) The Carrier violated the Agreement between the parties when it paid less than the minimum of time and one-half for two (2) hours of service performed either on rest day or in excess of (8) (eight) hours on January 21, 1975, to each of twenty-four (24) Claimants.

(b) The Carrier now be required to compensate each of the hereafter named Claimants an additional one (1) hour at pro rata rate of their position:

A. J. Shawgo	J. M. Bartos	W. D. MacDonald
J. B. Winter	B. P. Jackson	D. L. Kobler
L. Wheat	R. E. Olson	E. C. Richards
M. J. Thompson	P. M. Gutierrez	D. L. Jacobs
J. R. Grosko	J. C. Hurley	E. E. McCuistion
W. H. Murray	J. A. Schwab	S. T. Jacques
C. B. Shirley	F. Gaeta	V. Cline
F. E. Armenta	R. E. Laier	E. E. Lancaster

OPINION OF BOARD: Claimants herein were required to attend a class for the purpose of qualifying employes for the writing of train orders on the MOP and Santa Fe railroads. The classes were held either on the employes' rest day or before or after regular working hours. The employes were compensated two hours at straight time, which Carrier characterized as a gratuity, for attending such classes.

The crux of this dispute is whether or not the attendance at the classes may be construed to be for the primary benefit of the employes, for the mutual benefit of Carrier and the employes or for the primary benefit of Carrier. That issue was well defined in Award 10808 as follows:

> "At the outset, we are of the opinion that any time of the employe directed by the Carrier is work or service, with certain exceptions. Two exceptions are where such time is for the primary benefit of the employe 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 must be noted that the classes involved in this dispute were neither operating nor safety rules classes. That they were training classes mandated by Carrier is undisputed. Are such classes then "work or service" as used in the Agreement or do they fall into the category of the exceptions which are spelled out above, which have been generally accepted in the industry? The question is best answered in Fourth Division Award No. 3325 in which the employes were required to attend "First Line Supervisory Training" programs and in which the same arguments as those herein were advanced by the parties:

> "In the dispute before us attendance at the classes was mandatory and it is also interesting to note that Carrier, although stating on the property that there was no rule requirement for any compensation, did indeed compensate other employes for attendance at the same classes on their regularly assigned work days. To accept Carrier's reasoning all training programs, regardless of purposes cannot be considered to be work, within the meaning of that term in the Agreement. We do not agree. The purpose of the program is relevant and must be considered in each instance. If training were for the purpose of qualifying an employee to retain his position (e.g. rules examination classes) or for the purpose of qualifying for promotion or for the purpose (among others) of learning new procedures we would not allow a claim for overtime compensation such as that requested herein. Such programs are either for the primary benefit of the employe or mutually advantageous to Carrier and employes. In this case as in any other general training programs to increase the efficiency of the employes, we must conclude that the program is for the primary benefit of Carrier and must be

"construed as work. Accordingly, we find that Claimants did perform a service when they attended the classes on their rest days and should have been paid for such attendance at the time and one-half rate."

For the reasons advanced in the Award above, we find that the classes in this instance were for the primary benefit of Carrier, and as such, and to increase the efficiency of employes, constituted "work or service" and should have been compensated in accordance with Rules 8 and 9.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paules
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1978.