

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22989  
Docket Number MS-22942

Richard R. Kasher, Referee

PARTIES TO DISPUTE: (J. O. Hudgins  
(  
(Seacoast Transportation Company

STATEMENT OF CLAIM: "Claim of J. O. Hudgins:

1. Carrier violated the Agreement when it failed to call Truck operator J. O. Hudgins from the extra board to protect extra work.
2. Carrier violated the Agreement when it called H. C. Belk (regularly assigned) to protect extra work before the extra board was exhausted.
3. Carrier further violated the Agreement when it called H. C. Belk, not having hours available to protect his assignment after protecting this extra work.
4. Carrier acted arbitrarily when it blanked the assignment normally assigned to Mr. Belk.

As a consequence thereof, Carrier shall;

Compensate J. O. Hudgins for nine (9) hours at the straight time rate for Mr. Belk's position."

OPINION OF BOARD: The Claimant, Mr. J. O. Hudgins, is employed as a Truck Operator by Seacoast Transportation Company, a subsidiary of Seaboard Coast Line Railroad Company. On June 25, 1976, the date of the incident giving rise to the claim before this Board, Claimant was assigned to the Truck Operators' Extra Board at Orlando, Florida, and was subject to call Monday through Sunday. As an extra board employe, he was called for assignments in his turn but was not guaranteed a given number of hours nor work on any given day.

On June 25, 1976, Truck Operator H. C. Belk was regularly assigned to position number 116 at Orlando. The hours for that position were 8:00 a.m. to 6:00 p.m., including one hour for lunch. Mr. Belk was called in at 5:30 a.m., June 25, 1976, and worked continuously with his regularly assigned hours. The Organization filed a claim on August 16, 1976, alleging that the Carrier violated the Agreement by: (1) failing to call the Claimant from the extra board to protect extra work; (2) calling operator H. C. Belk to protect

extra work before the extra board was exhausted; and (3) calling H. C. Belk, who did not have hours available to protect his assignment, after protecting his extra work.

The claim must be dismissed. It should first be noted that the claim is not supported by any dates, times or rules of the alleged violation. The Claimant's submission consisted of a letter dated January 31, 1979, addressed to the Executive Secretary, Third Division, National Railroad Adjustment Board, stating his claim and intention to file an Ex Parte Submission.

The Carrier's position was that operator H. C. Belk was called and compensated in accordance with the Agreement. Mr. Belk was paid for nine (9) hours at the straight time rate and two and one-half (2½) hours at the overtime rate for his services on June 25, 1976. The Carrier argued that Belk was properly paid pursuant to Rule 13(c) of a Memorandum Agreement dated July 14, 1970, which reads as follows:

"Rule 13

(c) Except as otherwise provided in these rules, time in excess of nine (9) hours, exclusive of the meal period, on any day, will be considered overtime and paid on the actual minute basis at the rate of time and one-half."

The Carrier also asserted that position number 116 was not blanked on June 25, 1976, and that the work for which Mr. Belk was called to perform did not fall within any of the categories listed in Rule 8 - Extra Work - which reads in pertinent part as follows:

"Rule 8 -- Extra Work

(b) Extra work is construed to be filling of assignments of employees on vacation, short vacancies, new assignments or vacancies pending assignment, terminal work not performed by employees on regular assignments, and seasonal work."

Noting the Claimant's failure to cite any date, time, or specific contractual violation, or to refute the Carrier's position, this Board dismisses the claim.

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 not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulson  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1980.