

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Seaboard System Railroad

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

(1) The Agreement was violated when Foreman G. F. Jackson, Apprentice Foreman C. J. Wilson and Trackmen H. Montgomery, J. C. Curry and W. Reid (Section Force 5409) were compensated at their straight time rate instead of at their time and one-half rate for the 9th and 10th hours they worked on Monday through Thursday each week during the period June 15, 1981 through August 14, 1981 [System File C-4(31)-SF 5409/12-38(82-1045)G].

(2) The Agreement was further violated when Foreman G. F. Jackson, Apprentice Foreman C. J. Wilson and Trackmen H. Montgomery, J. C. Curry and W. Reid were not permitted to work their scheduled assigned hours on each Friday during the period June 15, 1981 through August 14, 1981.

(3) Because of the violation referred to in Part (1) above, the claimants shall each be allowed 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 the overtime service they rendered on the claim dates mentioned in Part (1) hereof.

(4) Because of the violation referred to in Part (2) hereof, the claimants shall each be allowed eight (8) hours of pay at their respective straight time rates for each claim date mentioned in Part (2) hereof."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Parties to said dispute waived right of appearance at hearing thereon.

Claimants were assigned to Section Force 5409 headquartered at Moncks Corner, South Carolina, on the Carrier's Florence Division. Claimants worked eight hours per day on Monday through Friday with Saturday and Sunday as designated rest days.

Commencing June 15, 1981, Claimants were directed to work ten hours per day on Monday through Thursday so that their hours coincided with welders who were working in the district. The welders were working a ten hour per day, four day workweek as "make up time" under the provisions of Rule 38. Claimants worked that schedule until August 14, 1981. Claimants were not compensated at the time and one-half rate for the two hours worked in excess of eight per day on the modified schedule and were not permitted to work on Fridays.

The Carrier relies upon a practice for stationary forces that are working with floating forces to observe the working hours of the floating forces. The record reveals specific examples on several of the Carrier's divisions where the stationary forces' hours were adjusted to coincide with the hours worked by the floating forces.

In Third Division Awards 24330 and 24265 we addressed the issues raised in this matter concerning the Carrier's modification of the hours of the stationary forces to coincide with the hours worked by floating forces in light of the language found in the April 13, 1971 Memorandum Agreement and the existence of a practice of doing so. We find nothing in this record to cause a different result.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1988.