

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29726
Docket No. MW-29440
93-3-90-3-368

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific Railroad Company (former
(Missouri Pacific Railroad Company)

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

- (1) The Agreement was violated when the Carrier changed the work week of Work Equipment Mechanic D. R. Hill from Monday through Thursday with Friday, Saturday and Sunday as rest days to a work week of Saturday through Tuesday with Wednesday, Thursday and Friday as rest days effective Saturday, March 18, 1989 (Carrier's File 890582 MPR).
- (2) The Agreement was further violated when the Carrier changed the work week of Work Equipment Mechanics J. L. Byrd, K. W. Carson, L. D. Sales and G. L. Sales from Monday through Thursday with Friday, Saturday and Sunday as rest days to a work week of Saturday through Tuesday with Wednesday, Thursday and Friday as rest days effective Saturday, March 25, 1989.
- (3) As a consequence of the violation referred to in Part (1) above, Claimant D. R. Hill shall be allowed the difference between straight time and time and one-half for Saturday and Sunday work [ten (10) hours straight time per week] plus payment of ten (10) hours straight time per day for Wednesdays and Thursdays [twenty (20) hours straight time per week] for a total of thirty (30) hours straight time per week beginning Saturday, March 18, 1989 and continuing.

- (4) As a consequence of the violation referred to in Part (2) above, Claimants J. L. Byrd, K. W. Carson, L. D. Sales and G. L. Sales shall each be allowed the difference between straight time and time and one-half for Saturday and Sunday work [ten (10) hours straight time per week] plus payment of ten (10) hours straight time per day for Wednesdays and Thursdays [twenty (20) hours straight time per week] for a total of thirty (30) hours straight time per week beginning Saturday, March 25, 1989 and continuing."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

The Claimants were members of gangs assigned a workweek of four 10-hour days as provided under Memorandum Agreement dated August 7, 1974. Assigned workdays were Monday through Thursday, with Friday through Sunday as rest days. There is no dispute as to the original assignment of the Claimants and other affected employees to the four 10-hour days workweek.

The Memorandum Agreement reads in pertinent part as follows:

"1. At the election of a majority of employes working in a gang and with the concurrence of the District Engineer on the District where such gang is working, a work week of four (4) days of ten (10) hours may be established with work week Monday through Thursday, rest days Friday, Saturday and Sunday. By agreement between the majority of employes working in

such gang and the said District Engineer,
three other consecutive rest days bay be
substituted therefor...."

On January 30, 1989, the Carrier sought to change the workweek to Saturday through Tuesday, with rest days of Wednesday through Friday, based on operational needs concerning the availability of tracks on which work was required. The Carrier demonstrates that petitions were circulated seeking the employees' approval of the change, as required by the Memorandum Agreement and that a majority of the employees signed such petitions. The workweek was thereafter changed as requested.

The Organization's principal contention is that the Claimants, serving as Mechanics on the gangs, were coerced into agreeing to the change (four of the five having signed the petition). The record fails to demonstrate that the employees were prohibited from indicating their choices freely in the matter. The Carrier's request was based on reasoned necessity. The Memorandum Agreement provides for such eventuality. Finally, there was no demonstrated loss of premium pay, where appropriate, as a result of the change.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Nancy J. Deyer
Nancy J. Deyer - Secretary to the Board

Dated at Chicago, Illinois, this 12th day of August 1993.