

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30986
Docket No. SG-30834
95-3-92-3-667

The Third Division consisted of regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Consolidated Rail Corporation
((Conrail)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):

Claim on behalf of M.J. McDonagh:

- (A) The Carrier violated the current Signalmen's Agreement, particularly Rule 4-E-2(d), when it failed to provide a second meal period or compensation for such period as provided in Rule 4-E-2(e).
- (B) The Carrier should now be required to compensate Claimant one (1) hour at the applicable time and one-half rate. G.C. File No. RM-2194-80-1091. Carrier File No. SG-367. BRS File Case No. 8861-Conrail."

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 employee 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 Claimant is regularly assigned to first shift on the Trouble Desk, which works three continuous eight hour shifts during a 24 hour period. Rule 4-E-1(b) provides that where three shifts are worked an allowance of 20 minutes with pay shall be made during each period of eight hours for a meal. Rule 4-E-2(a) provides that

the meal period shall be between the end of the fourth and the beginning of the seventh hour.

The facts involved in this case are that Claimant was called out on overtime on April 6, 1991 to cover a vacancy on the Trouble Desk from 11:00 P.M. to 7:00 A.M. He then worked his regular assignment on the Trouble Desk from 7:00 A.M. to 3:00 P.M. at the straight time rate of pay. The claim alleges that Claimant was denied a second meal period during his regular tour of duty, 7:00 A.M. to 3:00 P.M.

It is the Organization's position that the Claimant was entitled to a meal four hours after beginning service on his regular assignment and that he was denied an opportunity to eat during the tour of duty. It is alleged paragraphs (d) and (e) of Rule 4-E-2 were violated.

Carrier denied the claim on grounds that no evidence had been presented indicating the Claimant could not have taken his 20 minute meal during his tour of duty, or that any supervisor denied him the right to a meal. Carrier maintains there is nothing in the Agreement which provides for any penalty payment whatsoever when a Signaller is working eight consecutive hours on a regular assignment where two or three shifts are worked.

In the peculiar facts and circumstances of this case, the Board concludes that the claim should be sustained to the extent of a payment of 20 minutes at the overtime rate.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of July 1995.