

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31316
Docket No. MW-30585
96-3-92-3-354

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
(Consolidated Rail Corporation

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

- (1) The Agreement was violated when the Carrier failed to compensate Mr. C. R. Carroll for rest day service performed on October 19, 1990 (System Docket MW-1762).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant C. R. Carroll shall be allowed three (3) hours' pay at his respective time and one-half rate."

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 facts developed by the correspondence on the property show that Claimant's job duties included reporting time for surfacing gang SC 422. Claimant's Supervisor, J. Schauer, called Claimant on his rest day (October 19, 1990) inquiring whether Claimant faxed certain time reports to Support Services and where the reports were located. Claimant responded to Schauer's inquiry and Schauer obtained the forms and faxed them to Support Services. As a result of that call and Claimant's response, this claim seeks three hours pay at the time and one-half rate.

The relevant Rule states:

"RULE 16 - CALLS

(a) Employees notified or called to perform service outside of and not continuous with the regularly assigned working hours shall report for duty with reasonable promptness and shall be paid thereafter, a minimum of two (2) hours and forty (40) minutes at the rate of time and one-half. If held on duty longer than two (2) hours and forty (40) minutes, they shall be paid at the applicable overtime rate on the actual minute basis. Time will be considered continuous if an employee is called and reports within thirty (30) minutes after his assigned working hours."

The Organization has not sufficiently demonstrated that Claimant's answering a supervisor's question on his rest day concerning whether certain reports were completed and where the reports were located falls within the ambit of the Rule 16. There is no evidence that Claimant performed services as contemplated by the Rule.

Third Division Award 8131 relied upon by the Organization is not on point. There, a foreman was required on his rest days to make calls to members of his crew and to direct those employees to perform relief work. That constituted services performed. Claimant here merely answered a phone inquiry. Similarly, Third Division Awards 24373, 21380 and SBA No. 1016, Award 8, involved the carriers' requirements that, after working their assignments, employees were to remain available for further duty. That is not this case. Finally, Third Division Award 2032 concerned the Carrier's requirement for an employee to attend an Investigation. Again, that is not this case. Here, Claimant merely answered a phone call. He performed no services.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

Form 1
Page 3

Award No. 31316
Docket No. MW-30585
96-3-92-3-354

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of January 1996.