

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45421
Docket No. SG-47847
25-3-NRAB-00003-230296**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:

Claim on behalf of K. Friedli for compensation at the overtime rate of pay for each Sunday he is required to work and for 8 hours at the straight-time rate for each Friday he is denied the opportunity to work starting June 10, 2022, and continuing; account Carrier violated the Signalmen’s Agreement, particularly Rule 5, when on June 10, 2022, Carrier altered the workweek to other than Saturday and Sunday rest days by Bulletin Z5S53972 assigned to the Claimant. Carrier’s File No. 1776148, General Chairman’s File No. N 0304, BRS File Case No. 5934, NMB Code No. 300 - Contract Rules: Assignments/Bulletins.””

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 were given due notice of hearing thereon.

The Claimant is a Skilled Relief Signal Maintainer who was assigned per bid to an alternate, non-traditional schedule with rest days of Friday and Saturday created by the Carrier for providing relief for existing positions.

Rule 5 provides, in pertinent part:

“RULE 5 – 40-HOUR WORKWEEK

NOTE: The expressions “positions” and “work” used in Rule 5 refer to service, duties or operations necessary to be performed the specified number of days per week and not to the work week of individual employees.

GENERAL

There is established for all employees, subject to the exceptions contained in this agreement, a work week of 40 hours, consisting of five days of eight hours each, with two consecutive days off in each seven; the work weeks may be staggered in accordance with the Carrier's operational requirements, so far as practicable the days off will be Saturday and Sunday. The foregoing work week rule is subject to the provisions which follow:

A. Five-Day Positions

On positions the duties of which can reasonably be met in five days, the days off will be Saturday and Sunday.

* * *

D. Regular Relief Assignments

All possible regular relief assignments with five days of work and two consecutive rest days will be established to do the work necessary on rest days of assignments in six or seven-day service or combinations thereof, or to perform relief work on certain days and such types of other work on other days as may be assigned under the agreement.

Assignments for regular relief positions may on different days include different starting times, duties and work locations for employees of the same class in the same seniority district, provided they take the starting time, duties, rates of pay, and work locations of the employee or employees whom they are relieving.

In Third Division Award 45417, this Board discussed the established authority recognizing the existence of a rebuttable presumption for five-day work weeks, with Saturdays and Sundays off for these cases [emphasis in original]:

The case authority on this issue is well developed. See e.g., Third Division Awards 40609 [cited by the Carrier] and 37049 [cited by the Organization] with further authority cited in those awards. Stated simply, the awards hold that the type of language found in Rule 5 amounts to “a rebuttable presumption” for five-day work weeks, with Saturdays and Sundays off.

The question in each case is whether the presumption has been rebutted? To answer that question, the facts in each case must be examined.

Here, the relief position in dispute works on territory where the Carrier and METRA operate commuter passenger services in the Chicago and surrounding metropolitan area – a 24/7 operation – which, according to the Carrier, handles approximately 1,500 scheduled trains during peak and 2,400 scheduled trains during off-peak hours across multiple lines.

The Carrier’s evidence offered to rebut the presumption for five-day work weeks, with Saturdays and Sundays off for the position in this case is explained in its October 31, 2022 letter with attached detail demonstrating increased operations following reductions caused by the COVID pandemic and the need for relief positions of the type bid on by the Claimant to meet the increased traffic and maintenance requirements – referred to by the Carrier as “... the now rapidly increasing number of passengers on their lines coming out of the pandemic” [emphasis added, footnotes omitted]:

... As of the date of this letter [October 31, 2022], METRA has published up to August of 2022, their ridership report. Contained within the report it is apparent that the weekend service is increasing above pre-pandemic levels, to which the Carrier has responded by proactively assigning a job to provide weekend maintenance support over the territory. In August alone you can see that there was a one percent increase in the number of regularly scheduled revenue trains operated on Saturday, above the pre-pandemic levels. Additionally, there has been a two percent increase of regularly scheduled revenue trains on Sundays in August alone, which is above pre-pandemic levels. The same increase in traffic on weekend days can be seen in the July 2022 as well, which would clearly indicate a trend

of increasing ridership to which the Carrier must proactively respond to. This is a clear indication that there is a justifiable need for the additional weekend coverage by the Carrier to support the growing demand for weekend ridership in the area, thus providing an operational need for the weekend coverage.

As is clearly indicated in the report, there exists evidence that the weekend service is increasing above the pre-pandemic levels to which the Carrier is supporting by providing weekend relief coverage. The Organization attempts to use insufficient data analysis to provide justification for their filing of claim. When critically analyzing the rise in weekend ridership compared to pre-pandemic numbers rather than simply looking at total train counts, it becomes more clearly visible that an operational justification exists for the bulletining of a weekend relief position on the territory. ...

In this case, we agree with the Carrier's position. The Carrier's detailed showing sufficiently rebuts the presumption for five-day work weeks, with Saturdays and Sundays off to cover relief maintenance positions resulting from the increased weekend ridership and train traffic on the METRA commuter lines.

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.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 13th day of February 2025.