

BEFORE PUBLIC LAW BOARD NO. 1837

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
AND  
NORFOLK & WESTERN RAILWAY COMPANY

Case No. 70

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

1. The Carrier violated the Agreement when it failed and refused to compensate Tie Inserter Operators J. L. Hummel and J. J. Miller, Spiker Operators J. H. Henderson, J. L. Barnes, and R. L. Michalo and Tie Handler Operator R. R. Hindle for overtime service rendered from 3:30 p.m. to 4:00 p.m. on August 24, 1982. (File MW-BRS-82-32)

2. The Claimants listed in Part 1 shall each be allowed one-half hour overtime compensation for service rendered from 3:30 p.m. to 4:00 p.m. on August 24, 1982.

FINDINGS:

On October 15, 1982, the Organization notified the Carrier that it had violated provisions of the parties' effective working agreement dated April 1, 1951, when it failed and refused to compensate Claimants J. L. Hummel, J. J. Miller, J. H. Henderson, J. L. Barnes, R. L. Michalo and R. R. Hindle one-half (1/2) hour overtime. The Claimants worked until 4:00 p.m., and the Carrier compensated them only through their quitting time of 3:30 p.m. The Organization cites the following rule:

Rules 22 (A), 22 (B), and 27:

Time worked preceding or following and continuous with a regularly assigned eight-hour work period shall be computed on the actual minute basis and shall be paid at time and one-half rates and

double-time rates after sixteen (16) continuous hours of work.

The Carrier's position is that no overtime was worked by the Claimants and the claim was denied. The Claimants were members of the T7 tie force, and the Carrier states that all members stopped their actual work on the claimed date in sufficient time to allow their return to their camp outfit so they could be relieved in accordance with their assignment. The Carrier asserts that the Claimants chose to return to their camp cars via private automobiles rather than company-provided transportation. By doing so, the Carrier asserts that the Claimants arrived at their camp cars later than the employees who used company-provided transportation, thus causing the alleged overtime.

This Board has reviewed the record in this case, and we find that the Organization has not met its burden of proof that the Claimants worked any overtime or were eligible for overtime pay on August 24, 1982. The record is clear that the employees who elected to ride in their personal automobiles did not arrive until after the employees who took the Company-provided transportation. The Claimants decided to stop at a convenience store on their way. The employees transported in Carrier vehicles arrived at the camp cars at the prescribed quitting time. The Claimants who decided to go on their own came in later. That, however, does not make them eligible for overtime pay.

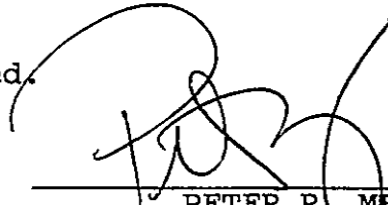
The Organization has not met its burden of proof that the

AND 70-1837

Claimants were eligible for overtime pay and, therefore, the claim must be denied.

AWARD:

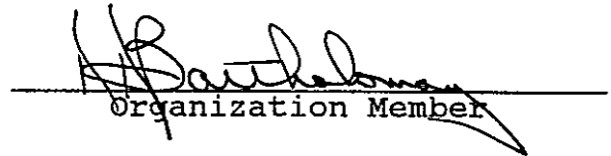
Claim denied.



PETER R. MEYERS  
Neutral Member



Carrier Member



Organization Member

Dated: April 29, 1991