

C
O
P
Y

AWARD NO. 11
NRAB DOCKET NO. CL-8262
CASE NO. 10
SSW FILE R-51-1028-22
BRC FILE NR-27-32

SPECIAL BOARD OF ADJUSTMENT NO. 169

PARTIES } The Brotherhood of Railway and Steamship Clerks
TO }
DISPUTE } St. Louis Southwestern Railway Company

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

(1) That Carrier violated the Clerks' current Agreement when it failed to compensate Mr. James W. Allen, Florida Street Station, St. Louis, Missouri, at punitive rate of pay for work in excess of eight hours in a day.

(2) That James W. Allen be paid the difference between pro rata rate of pay and punitive rate of pay for Check Clerk position on March 16, 1954.

FINDINGS: Claimant James W. Allen was regularly assigned to a Group 3 position, at the same time holding Group 1 seniority, and performed extra work in Group 1 in line with his seniority. On the date for which claim is made here, claimant had worked his regularly assigned position in Group 3 and was used in Group 1 on a position starting work prior to expiration of twenty-four hour period commencing with starting time of position worked in Group 3. He was paid straight time rates for the work performed in the Group 1 position and claims time and one-half for that part of the work that was performed within the twenty-four hour period in which he had performed service in Group 3. Claim is based on the straight overtime rule in the current agreement.

The question of whether in the exercise of seniority, as in this instance, overtime rates apply for the time worked within the twenty-four hour period, as here, has long been considered in the railroad industry. The first instance was in 1918 when the Director General of Railroads, United States Railroad Administration, made interpretation in Question and Answer No. 19 to Interpretation 8 of Supplement 7 to General Order 27. That decision was as follows:

"DECISION - The employee will be paid overtime at the rate of time and one-half. This will not apply where employees alternate between shifts for their own conveniences or due to seniority changes."

Subsequent thereto, in 1937, a previous General Chairman on this property in seeking a clarification of the method in which men were being permitted or not being permitted to exercise their seniority to a Group 1 position after having worked a shift in another group within the twenty-four hours, insisted that in instances where employees are exercising their seniority rights from one seniority class to another seniority class must be permitted to exercise their seniority but that only straight time rates of pay would be involved in such a situation. After

Award No. 11

considerable correspondence, the position of the General Chairman was accepted by the railroad, but in the answering letter only a Group 2 job was mentioned. The Organization now contends that inasmuch as only Group 2 was mentioned in that correspondence that it did not apply to Group 3 men as in this instant case.

The Board is unable to find any distinction in the agreements between the application of Interpretation 8 to Supplement 7 to General Order 27 and is of the opinion that the application as stated in Interpretation 8 is applicable to both Group 2 and Group 3 employees. Therefore, we can find no basis upon which we could make a sustaining opinion in this case.

AWARD: Claim denied.

/s/ Frank P. Douglass
Frank P. Douglass - Chairman

/s/ W. E. Straubinger
W. E. Straubinger, Employee Member

/s/ L. C. Albert
L. C. Albert, Carrier Member

(Employee Member dissents based on
Awards 6563 and 4549.)

Tyler, Texas
March 18, 1957.