

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 259

Case No. 259

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Union Pacific Railroad Company
 (Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement when on January 28, 29, 30 and 31, 1985 and on February 20, 25, 26, 27 and 28, 1985, Section Gangs 5358, 5356, 5348 and 5349 in the Little Rock Terminal, laid rail using equipment assigned to the System Rail Gang 6801, working eight hours each day during periods of time when employees of the System Rail Gang were off on rest days.

(2) Therefore, each of the following Claimants listed below should now be allowed 32 hours overtime compensation at the rate in effect in January, 1985, and also 40 hours overtime compensation at the rate in effect in February of 1985: Trackman J. H. Powell, Machine Operator J. W. Hinton, Foreman L. B. Blunt, Trackman D. R. Lee, Mechanic B. P. Brooks, Trackman K. McDaniel, Trackman C. P. Back, Trackman P. H. Pickins, Trackman G. DeCourly, Trackman R. L. O. Burks.

Findings: This Board has jurisdiction by reason of the Parties Agreement of January 5, 1959.

This is the first of two cases, i.e., Nos. 259 and 262, arising from similar facts and involves Division and System Gangs.

Carrier in November 1984 implemented a track project to rebuild portions of the North Little Rock Terminal. Division Section Gangs 5348, 5349, 5358 and 5366 began laying rail in November 1984. In January 1985 System Rail Gang 6801 was brought in to supplement the Division forces and worked until completion of the project in April 1985. The record shows that such joint use was consistent with the historical practice. Also, there were projects completed by district without assistance from System Rail Gang.

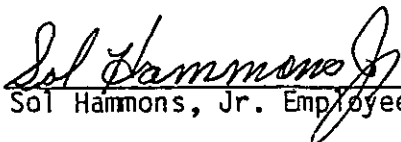
System Rail Gangs work consecutive days during a month and accumulate their rest or days off, which are then taken at the end of the month. Whereas the Division Section Gangs work a normal five (5) day work week with two (2) days off each week. During the period of claims members of the System Rail Gang were off on their rest days, i.e.,

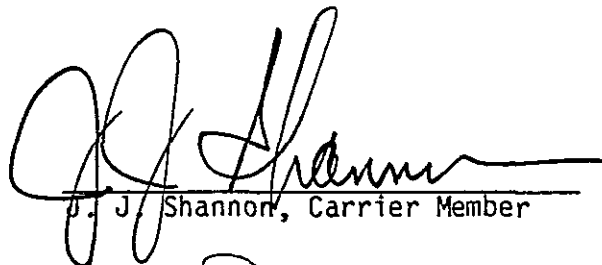
January 28, 29, 30 and 31 and February 20, 25, 26, 27 and 28, 1985. During such rest day periods the Division Gangs involved worked their normal work cycle and continued laying rail. Also, during said periods of System Gangs rest days Section Gangs 5348, 5349, 5356 and 5358 used the Speed Swing 53-29, assigned to System Rail Gang 6801, because their Speed Switch had broken down and was in for repair.

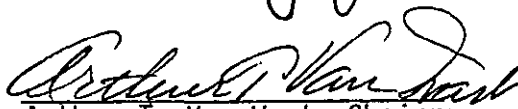
The instant claims are on behalf of certain members of System Rail Gang 6801. They allege a violation of Rule 2-Seniority Rights and Rule 14 Section 1(J) - Work Week asserting that they should have been notified previous to taking their rest days and permitted to work overtime.

The facts of record when applied to the rules cited causes the Board to find no violation of the Agreement rules. There is no rule of delineation or exclusivity. The District or Division forces were merely performing rail laying work of employees which can and is performed by System or Division forces including use of Speed Swing 53-29. It is noted that no claims were filed on behalf of the Division Section Forces who were off on their rest days, when the System Gang merely laid rail on such days. The instant claims will be denied as being without merit.

Award: Claims denied.


Sol Hammons, Jr. Employee Member


J. J. Shannon, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued February 6, 1989.