

DECISION OF COMMITTEE CREATED BY
MEMORANDUM AGREEMENT DATED JUNE 29, 1949
UPON DISPUTES ARISING UNDER THE AUGUST 11, 1948 RULES AGREEMENT
BETWEEN RAILROADS REPRESENTED BY THE
EASTERN, WESTERN AND SOUTHEASTERN CARRIERS' CONFERENCE COMMITTEES
AND THE EMPLOYEES OF SUCH RAILROADS REPRESENTED BY THE
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEERS
SWITCHMEN'S UNION OF NORTH AMERICA

with

B. R. ABERNETHY
SITTING WITH THE COMMITTEE AS A MEMBER THEREOF

SPECIAL BOARD OF ADJUSTMENT NO. 685

Chicago, Illinois - January 12, 1967

PARTIES Switchmen's Union of North America
TO and
DISPUTE: Chicago, Rock Island and Pacific Railroad Company

STATEMENT OF CLAIM: Claim is made for a minimum day's pay, at time and one-half rate, on July 4, 1964 in favor of Switchmen J. C. Bates, D. M. Roberts, K. L. Knapp, K. E. Sisk, O. S. George and D. L. Koker, all of whom hold seniority as switchmen in the Carrier's Silvis, Illinois Terminal. (Corrected by deletion)

FINDINGS: Two separate Agreements are in effect and govern the relations between these parties. One, an Agreement dated August 11, 1948, contains an overtime provision applicable in Yard and Hostler service, Section 9(c) which provides:

Where an extra man commences work on a second shift in a twenty-four hour period he shall be paid at time and one-half for second shift except when it is started twenty-two and one-half to twenty-four hours from the starting time of the first shift.

The other Agreement pertinent here, dated June 25, 1964, Article I, Section 1(b) provides as follows concerning work performed on specified holidays:

Yard service employees who work on any of the seven specified holidays shall be paid at the rate of time and one-half for all services performed on the holiday with a minimum of one and one-half times the rate for the basic day.

The claimants in this case performed yard service on a 3:55 yard assignment on July 3, 1964. Thereafter they also protected a 7:55 A.M. extra yard assignment on July 4, 1964. In so doing, they performed a second shift within twenty-two and one-half hours in yard service on an extra yard assignment. Service performed on the 7:55 A.M. shift was also performed on an established holiday, July 4, 1964.

Carrier paid claimants for work performed on the holiday July 4, 1964, eight hours at time and one-half as required by the June 25, 1964 Agreement. Claimants request an additional eight hours' pay at time and one-half under the terms of Section 9(c) of the August 11, 1948 Agreement. Carrier contends that in making one payment of time and one-half rate for service performed on July 4, 1964 (a holiday) it complied with the requirements of Article III, Section 9(c) of the Switchman's Schedule and the requirements contained in Article I of the June 25, 1964 Agreement.

These Agreements contain no prohibition against duplication of premium payments. Neither Agreement calls for or provides for the deduction from payments due under it any payments made under terms of the other. Payment of premium pay for service performed on the holiday as required by Article I, Section 1(b) of the June 25, 1964 Agreement cannot abrogate the Carrier's separate obligation to pay premium pay for commencing a second shift within twenty-two and one-half hours as required by Section 9(c) of the August 11, 1948 Agreement. These are two separate and distinct Agreements and two separate and distinct contractual obligations, which this Board may not alter under the guise of interpretation. If this duplication of payments for service performed during the same hours is to be barred, it must be barred by negotiation and agreement of the parties. For this Board to bar such duplication would be for it to add to and modify the Agreements. This the Board has no authority to do.

DECISION: Claim sustained.

EMPLOYEE MEMBERS

/s/ L. L. Loomis
/s/ M. W. Hampton
/s/ W. R. Meyers

CARRIER MEMBERS - DISSENTING

/s/ J. W. Oram
/s/ M. E. Parker
/s/ G. M. Seaton Jr.

NEUTRAL MEMBER

/s/ Byron R. Abernethy