

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES) Brotherhood of Maintenance of Way Employees
TO)
DISPUTE) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

"It is the claim of the Brotherhood that:

- "1. The Carrier violated the effective Agreement when it required Extra Gang No. 20, namely, Foreman R.P. Miller, Machine Operators C.L. Hargest and B.S. Cummings and Laborer J.R. Clemons, R.L. Taylor and S.J. Marks, to change their regularly assigned hours to 9:00 AM until 6:00 PM, beginning January 23, 1973 and continuing, 24, 25, 26, 29, 30 and 31.
- "2. The named Claimants and/or their successors, members of Extra Gang No. 20, shall now be paid two (2) hours, 7:00 AM to 9:00 AM, per day, each Claimant, at their respective straight time rate, and two (2) hours, 4:00 PM to 6:00 PM, per day, each Claimant, at their respective time and one-half time rate, on dates specified above, for the violation referred to in Part 1.
- "3. These named Claimants, and/or their successors, be likewise compensated for all such similar services rendered, and for the exact amount of time on each and every day, subsequent to the dates specified, and continuing until this violation of the Agreement ceases."

FINDINGS:

The question to be determined in this dispute is whether there was a substantive showing of necessity by Carrier during the handling on the property to warrant a change of starting time under the provisions of Rule 7-13(e).

During the handling on the property, Carrier advised the Organization that the change was made for the following reasons:

"[G]ang 20 was working in the vicinity of Mile Post C-521 and due to the number of trains run early the gang could perform no work until 9:00 a.m. Accordingly, the assigned hours were timely changed to begin at 9:00 a.m. which is permissible under Rule 7-13(c) VARIATION."


Neither the location of where the gang was working nor the reasons for changing the starting time was refuted by the Organization.

The Board finds, therefore, that Carrier complied with the requirement under Rule 7-13(e) of making a substantive showing of necessity so as to warrant a change of starting time. As was stated in Third Division Award No. 20065:

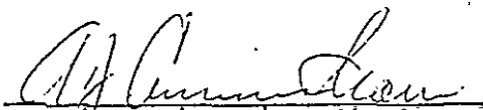
"[I]n Award 3039 which dealt with a rule substantially identical to the herein Rule 27 [Rule 7-13(e)], we did not disturb Carrier's determination that a change in hours was necessary because the 'work to be done was on a coal trestle which could not be handled during the regular morning hours because of the density of traffic'."

AWARD

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: March 18, 1977