

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES)
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM:

"Claim on behalf of North of Texarkana Machine Operator W. C. Scott for all time lost, commencing June 29, 1984, and on a continuing basis, with seniority, vacation and all other benefits restored intact account being wrongly and unjustly dismissed." (84-37-CB-Scott; 53-757)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

Claimant was dismissed from service on June 29, 1984, but later reinstated on September 5, 1984, as a result of Carrier having determined he was guilty of wrongfully claiming 9 hours compensatory pay for June 18, 1984, when he had not in fact worked on that date and he did not otherwise have the permission of his supervisor to have "swapped" overtime hours of work from other dates of service to cover the date in question under a company practice which appears to be of questionable application and dubious propriety.

Contrary to Carrier contentions that he did not have authority to do so, Claimant maintains he properly swapped overtime worked on both June 19th and June 20th for compensatory time on June 18th in keeping with a long recognized practice on the property.

Aside from the question of whether Claimant did or did not have authority to swap hours of service from one day to another, we think it clear, assuming arguendo Claimant had the right to take the disputed action, that careful examination of the record shows he was nevertheless claiming compensation in excess of that amount of time which he had reportedly worked.

In this latter regard, it is noted that a "foreman's timebook" entered into the company hearing listed Claimant as having worked 12 hours on both June 19th and June 20th, albeit at the company hearing Claimant's foreman testified Claimant had worked

12 hours on June 19th and 11 hours on June 20th. However, this one hour discrepancy notwithstanding, the record shows Claimant submitted a timecard for 9 hours compensatory time for each of the three dates of June 18th, 19th and 20th, or a claim for 27 hours, whereas it appears to be unquestioned that he had worked only 23 or 24 hours, depending upon which of the reported times correctly represented the time Claimant actually worked on June 19th and 20th.


We recognize, of course, that by equating overtime hours into straight time hours that the difference in time claimed versus time worked would be 28-1/2 straight time hours claimed versus either 26-1/2 or 27 straight time hours worked, again depending upon which of the reported times worked was correct.

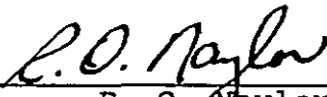
As concerns the Organization's further argument that it was common practice to take time off in anticipation of overtime not yet worked, this Board does not find this contention to be supported by the record before us.

The Board finding no reason to substitute its judgment for that of the Carrier with respect to the discipline as imposed, the claim will be denied.

AWARD:

Claim denied.


Robert E. Peterson, Chairman
and Neutral Member


R. O. Taylor
Carrier Member


M. A. Christie
Organization Member

Houston, TX
February 5, 1986