

Award No. 1018

Docket No. 1008

NATIONAL RAILROAD ADJUSTMENT BOARD

FOURTH DIVISION

The Fourth Division consisted of the regular members and in addition Referee John Day Larkin when award was rendered.

PARTIES TO DISPUTE:

RAILROAD YARDMASTERS OF AMERICA

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim and request of the Railroad Yardmasters of America that individual yardmasters be allowed pay as indicated below for attending meeting in the office of Terminal Trainmaster Colburn at Connellsville, Pa., on November 24, 1953:

P. B. Daniels	35 minutes at time and one-half rate
P. A. Jones	35 minutes at time and one-half rate
J. P. Crouse	30 minutes at time and one-half rate
J. T. McCormick	30 minutes at time and one-half rate
C. L. McDonald	35 minutes at time and one-half rate
P. J. Rush	30 minutes at time and one-half rate
P. R. Glass	30 minutes at time and one-half rate
F. R. Reilly	8 hours at rate of time and one-half
R. W. Cover	8 hours at rate of time and one-half
W. E. Welling	8 hours at rate of time and one-half
R. N. McClure	2 hours at rate of time and one-half
F. T. Tripoli	2 hours at rate of time and one-half
L. O. Robinson	2 hours at rate of time and one-half
J. B. Moreland, Jr.	2 hours at rate of time and one-half

EMPLOYES' STATEMENT OF FACTS: Claimants Daniels, Jones and McDonald were regular assigned first trick yardmasters, 7:00 A. M. to 3:00 P. M.

Claimants Crouse, McCormick, Rush and Glass were regular assigned second trick yardmasters, 3:00 P. M. to 11:00 P. M.

Claimants Reilly, Cover and Welling were regular assigned yardmasters whose assigned rest day was Tuesday, November 24, 1953.

Claimants McClure, Tripoli, Robinson and Moreland were regular assigned third trick yardmasters, 11:00 P. M. to 7:00 A. M.

Claimants were notified and required to attend a meeting in the office of the Terminal Train Master at Connellsville, Pa., 2:30 P. M. to 3:55 P. M., Tuesday, November 24, 1953, in accordance with the following notice :

"Connellsville, Pa., Nov. 23, 1953

All Yard Masters

(Notified by telephone PM 11-23)

Yard Master's Meeting will be held in my office Tuesday, November 24th, 1953 at 2:30 P. M.

You will arrange to be present.

P. V. Colburn."

Minutes of this meeting as prepared by the Terminal Train Master follows:

"Connellsville, Pa., Nov. 25, 1953

Minutes of Yardmaster's Meeting held in Terminal Train Master's Office at Connellsville, Pa. on Tuesday, November 24, 1953.

Yardmaster's Meeting held Tuesday, November 24, 1953 was called to order by Terminal Train Master P. V. Colburn, at 2:30 P. M. with the following in attendance:

P. V. Colburn, Presiding	Terminal Train Master
W. R. Leckemby (E)	General Yard Master
P. A. Jones	Yardmaster
R. W. Cover	"
L. O. Robinson	"
P. B. Daniels	"
J. P. Crouse	"
R. N. McClure	"
J. T. McCormick	"
C. L. McDonald	"
F. R. Reilly	"
J. B. Moreland, Jr.	"
P. J. Rush	Extra Yardmaster
P. R. Glass	"
F. T. Tripoli	"
W. E. Welling	"
J. M. McClure (A)	"

A—Absent
E—Excused

Mr. Colburn opened the meeting by stating the performance of Connellsville Yard was not what it should be at all and that in addition to several other matters wanted especially to bring to their attention the matter of delaying cars. The following items taken up:

LOCAL ORDERS—matter handling orders for cars discussed and the importance of furnishing cars as ordered brought out, decided to originate a book record to eliminate any mix-up on the orders, if filled, etc.

FUELING YARD ENGINES—It was brought out that yard diesels must be fueled between 72 and 80 hours and if not fueled at 80 hours to be sent to the shop.

CABOOSES—Cabooses to be handled promptly and spotted on caboose track within four hours after arriving.

GLASS BOX—Supply for Anchor Hocking must be followed each day, seeing number required on hand and that there must be no let down on this at any time.

DERAIL AT SODOM—Crews reported as going in and not closing, yardmasters at switches cautioned about this and suggested this be checked often.

ORDERS FOR SUPPLIES—Orders must be received for all supplies issued from yard office at switches, this being overlooked at times.

NO BILLS, OVER BILLS—Discussed with everyone present.

TERMINAL PERFORMANCE—Records read and brought out what must be done to effect improvement.

DELAYED CARS—Mr. Colburn stated this matter was very important and must be corrected at once. Traveling Car Agents check of Connellsville Yard November 9th read to all present each item discussed and brought out where mishandling occurred and the action necessary to correct. It was stated delayed cars the yardmaster's responsibility and that cars in the "B" Yard, Farm Tracks, overloads to be reduced, were not being handled promptly and properly. Copy of Form 2651 will be furnished the yardmaster on the first trick at 11:00 A.M. each morning and he will see all delayed cars possible handled on his trick and forward a report to Terminal Train Masters on cars not handled and furnish Form 2651 so marked to his relief.

An open forum was held and in the general discussion Yardmaster Moreland brought out would be a good idea if an arrangement could be made where Short Tracks could be unlocked on second and third tricks. Yardmaster McDonald stated Form 707 for this Rip tracks not received by him until 3:00 P.M. and then these tracks were locked not permitting the work to be done until following day. It was stated these matters would be taken up with Car Foreman McGuirk to see if some arrangement could be made for the night foreman to unlock them on request.

Mr. Colburn again stressed the importance of handling the cars and not delaying them, cars must be followed and an improvement effected immediately.

Meeting adjourned 3:35 P.M."

POSITION OF EMPLOYEES: Claims were presented and progressed on the Carrier as shown by the following:

"THE BALTIMORE AND OHIO RAILROAD COMPANY
Notice in Connection with Time Claimed

No. 9996

P
P-37-T

Pittsburgh, Pa. Dec. 1, 1953

Mr. F. R. Reilly, Yardmaster
Mr. R. N. McClure "
Mr. Frank Tripoli, Jr. "
Mr. C. L. McDonald "
Mr. Paul J. Rush "
Mr. L. O. Robinson "

Mr. P. H. Glass, Yardmaster
Mr. P. A. Jones "
Mr. J. P. Crouse "
Mr. P. B. Daniels "
Mr. R. W. Cover "
Mr. J. T. McCormick "
Mr. W. E. Welling "
Mr. J. B. Moreland, Jr. "

CONNELLVILLE, PA.

Dear Sir:

Your time report of Nov. 24, 1953 from to on which you claim Time account attending Meeting by TTM. is declined by the undersigned for the following reasons: It is our contention that there is no Rule in your Contract to support claim.

You have been allowed No Time.

Superintendent Pittsburgh, Pa.
Supvr. of Personnel " "

Yours truly,

H. J. Stants,
Regional Accountant."

* * * *

"RAILROAD YARDMASTERS OF AMERICA

Baltimore & Ohio—Local Lodge No. 13

5140 Blair Street
Pittsburgh (7), Pa.
December 7, 1953

Mr. A. W. Colnot—Superintendent,
Baltimore & Ohio Railroad
Smithfield Street
Pittsburgh, Pa.

Dear Sir:

Please list for discussion at our next regular Committee Meeting.

SUBJECT

Claim of Yardmaster P. B. Daniels and all other Yardmasters that was required to attend a meeting in Terminal Trainmaster's Office at Connellsville on November 24, 1953.

CONTENTION OF COMMITTEE

This Committee contends this request to attend meeting in Terminal Trainmaster's Office at Connellsville was in violation of Yardmaster's Contract.

Therefore this Committee requests these Claims be paid for November 24, 1953 and all subsequent Claims until this condition is corrected.

Respectfully yours,

/s/ R. T. Joyce,
Vice General Chairman.

762-A-File No. 9996
Blind Copy: W. F. Mauntel
R. M. Semple
P. B. Daniels"

Memorandum of Conference held in the office of Superintendent at Pittsburgh, Pa. December 21, 1953.

Present at Conference

Representing the Management

A. W. Colnot, Superintendent

Representing the Employees

R. T. Joyce
Vice General-Chairman
R.Y. of A.

Questions: Claim of Yardmaster P. B. Daniels and all other

yardmasters that were required to attend a meeting in Terminal Train Master's Office at Connellsville on November 24, 1953.

Joint Statement of Agreed Upon Facts:

On date in question, Yardmasters at Connellsville were required to attend meeting held in Terminal Train Master's office in connection with handling of business at that point.

Contention of Committee:

This Committee contends this request to attend meeting in Terminal Train Master's Office at Connellsville was in violation of Yardmaster's Contract.

Therefore, this Committee requests these claims be paid for November 24, 1953, and all subsequent claims until this condition is corrected.

Contention of Management:

On November 24, 1953, Yardmasters at Connellsville were requested to attend meeting in Terminal Train Master's office at Connellsville from 2:30 P. M. until 3:35 P. M. in connection with the handling of business at that point.

Decision of Management:

Inasmuch as these yardmasters were not required to lose any time account attending this meeting, claim is declined.

/s/ A. W. Colnot
Superintendent

/s/ R. T. Joyce,
Vice General-Chairman
R.Y. of A.

RAILROAD YARDMASTERS OF AMERICA
Baltimore & Ohio Local Lodge No. 13

Niles, Ohio
January 7, 1954

Mr. R. L. Harvey, Manager Labor Relations
Baltimore and Ohio Railroad Company
Baltimore, Md.

Dear Sir:

The attached claim for Yardmaster P. B. Daniels and 13 other yardmasters from Connellsville, Pa. has been handled with Superintendent A. W. Colnot, Pittsburg, Pa. and is being appealed to you for your decision under the present Railroad Yardmasters of America's contract.

The facts in this case are as follows:—

A meeting was called by Terminal Trainmaster Colburn in his office for 2:30 P. M. Tuesday, November 24, 1953 for all the 14 regular and extra yardmasters at Connellsville, Pa. The Notice read as follows:—

All Yardmasters.

Connellsville, Pa. Nov. 23, 1953

(Notified by telephone PM 11-23-53)

Yardmaster's Meeting will be held in my office Tuesday November 24th, 1953 at 2:30 P. M.

You will arrange to be present.

P. V. Colborn

This Committee contends that this request to attend meeting in Terminal Trainmaster's Office at Connellsville, Pa. was in violation of Yardmasters Contract.

Therefore, we request these claims be paid for November 24, 1953 and all subsequent claims until this condition is corrected.

Yardmaster Reilly—Was his rest day—Called out at 2:30 P. M.

Yardmaster Cover—Was his rest day—Called out at 2:30 P. M.

Yardmaster Welling—Was his rest day—Called out at 2:30 P. M.

We claim a full day for these three men being called out on their rest days.

Yardmaster McClure—Third trick man—called out at 2:30 P. M.

Yardmaster Tripoli—Third trick man—Called out at 2:30 P. M.

Yardmaster Robinson—Third trick man—Called out at 2:30 P. M.

Yardmaster Moreland—Third trick man—Called out at 2:30 P. M.

We claim a full day for these four men being called out before their rest.

Yardmaster Daniels—First trick man—worked overtime to 3:55 P. M.

Yardmaster Jones—First trick man—worked overtime to 3:35 P. M.

Yardmaster McDonald—First trick man—worked overtime to 3:35 P. M.

We claim 35 mins. overtime for these three men working until 3:35 P. M.

Yardmaster Rush—Second trick man called 30 min. prior to starting time.

Yardmaster Glass—Second trick man—called 30 min. prior to starting time.

Yardmaster Crouse—Second trick man—called 30 min. prior to starting time.

Yardmaster McCormick—second trick man—called 30 min. prior to starting time.

We claim 30 min. overtime for these four men called 30 mins. ahead of starting time.

Please list this case for discussion at our next meeting on January 19, 1953.

Very truly yours,

Mauntel-Joyce-Judge-Healey /s/ Robert M. Semple
Robert M. Semple."

* * * *

"THE BALTIMORE AND OHIO RAILROAD COMPANY
R. L. Harvey, Manager, Labor Relations
Office of Vice President,
Personnel
Baltimore 1, Md.

February 16, 1954

Mr. R. M. Semple, General Chairman
Railroad Yardmasters of America
426 Brown Street
Niles, Ohio.

Dear Sir:

Referring to our conference of January 28, 1954, when we discussed the following:

'Claim of Yardmaster P. B. Daniels and all other yardmasters that were required to attend a meeting in Terminal Train Master's Office at Connellsville on November 24, 1953'.

The facts in this case are on November 24, 1953, yardmasters at Connellsville, Pennsylvania, were required to attend meeting held in Terminal Trainmaster's Office in connection with the handling of business at that point.

As pointed out to you in our conference, the principle involved in this claim has been passed upon by the Fourth Division, National Railroad Adjustment Board, in Award No. 597. Further, none of the Yardmasters attending this meeting were required to lose any time; therefore, the claim is declined.

Very truly yours,

/s/ R. L. Harvey"

* * * *

"RAILROAD YARDMASTERS OF AMERICA
Baltimore and Ohio RR Local Lodge No. 13

Re-Claim of Yardmasters at Connellsville for attending meeting in Terminal Trainmasters' Office on November 24, 1953.

Niles, Ohio
March 8, 1954

Mr. R. L. Harvey, Manager Labor Relations
Baltimore and Ohio Railroad Company
Baltimore, Md.

Dear Sir:

Referring to my letter of January 7, 1954 to you in regard to the claims of certain yardmasters at Connellsville, Pa. for attending

meeting in Terminal Trainmasters Office on November 24, 1953 I wish to amend my claims for the following yardmasters.

Yardmaster Reilly—Called out at 2:30 P.M.—Was his rest day.

Yardmaster Cover—Called out at 2:30 P.M.—Was his rest day.

Yardmaster Wlling—Called out at 2:30 P.M.—Was his rest day.

I wish to amend my claim for a full day for these three men to a day at time and one-half account of this being their rest days.

Yardmaster McClure—Called out at 2:30 P.M. Third trick man.

Yardmaster Tripoli—Called out at 2:30 P.M. Third trick man.

Yardmaster Robinson—Called out at 2:30 P.M. Third trick man.

Yardmaster Moreland—Called out at 2:30 P.M. Third trick man.

I wish to amend my claim from a full days pay for these four men to two hours at time and one-half. I am claiming this time for these four men under Article 3, paragraph (d) which reads in part as follows:

'Yardmasters notified or called to perform work not continuous with, before, or after the regular work period will be allowed a minimum of three hours for two hours work or less,'

In regard to the claim for the above three Yardmasters, Reilly, Cover and Welling I am claiming time and one-half account of under rules of the Yardmasters Agreement, Article 4, which reads in part as follows:

'and if required to work on such regularly assigned relief day will be paid therefor at the rate of time and one-half, based on their daily rate.'

Very truly yours,

Robert M. Semple

Schoch-Mauntel-General Comm.

General Chairman"

* * * *

"THE BALTIMORE AND OHIO RAILROAD COMPANY

R. L. Harvey, Manager, Labor Relations

Office of Vice President,

Personnel

Baltimore 1, Md.

March 19, 1954

Mr. R. M. Semple, General Chairman
Railroad Yardmasters of America
426 Brown Street
Niles, Ohio

Dear Sir:

Referring to your letter of March 8, 1954, in connection with the claim of Yardmaster P. B. Daniels and all other yardmasters that were required to attend a meeting in Terminal Trainmaster's office at Connellsville on November 24, 1953.

As I understand your letter of March 8 you are now amending the claims as originally submitted as follows:

Yardmasters Reilly, Cover and Welling—A day's pay at time and one half rates, under Article 4 account November 24, 1953 being their regularly assigned relief day, instead of a day's pay at pro rata rates.

Yardmasters McClure, Tripoli, Robinson and Moreland —A call under Article 3 (d) instead of a day's pay at pro rata rates.

With respect to the other seven Yardmasters involved I assume no change is being made in the claims as originally submitted for them in your letter of January 7 and which were discussed in conference January 28, 1954.

I presume you received my declination letter of February 16, 1954, inasmuch as the Yardmasters did not lose any time and the principle involved having been passed upon by the Fourth Division of the National Railroad Adjustment Board in Award No. 597.

Very truly yours,

/s/ R. L. Harvey"

The pertinent rule in the Agreement on which the claims of the first and second trick Yardmasters are based provide that:—

"Article 3(b). All time in excess of eight (8) hours shall be paid for at time and one-half. The time consumed in walking transfer shall not be counted as overtime."

The pertinent rule in the Agreement on which the claims of the Yardmasters who attended the meeting on their rest days is based provides that:—

"Article 4(a). Regularly assigned Yardmasters will be assigned one (1) regular relief day in seven (7), and if required to work on such regularly assigned relief day will be paid therefor at the rate of time and one-half, based on their daily rate."

The pertinent rule in the agreement on which claims for the third trick yardmasters are based provides that:—

"Article 3(d). Yardmasters notified or called to perform work not continuous with, before, or after the regular work period will be allowed a minimum of three (3) hours for two (2) hours work or less, and if held on duty in excess of two (2) hours time and one-half will be allowed on the minute basis, provided that yardmasters who have completed their work period for the day and been released from duty, if conditions justify, will be paid as if on continuous duty."

Numerous awards, including Fourth Division Awards 417-537-567 and 837 have established that attendance at meetings is "work" within the meaning of rest day, overtime and call rules which is payable under the respectively applicable rules.

The record establishes that the meeting was set up for and at the convenience of carrier and that the yardmasters were required to attend. The minutes of the meeting indicates only discussion of subjects of a general nature and situations which prevail at all yards.

All data used in support of this case has been presented to the Carrier and made a part of the particular question in dispute.

The claim should be allowed.

CARRIER'S STATEMENT OF FACTS: The Terminal Trainmaster at Connellsville Yard, Connellsville, Pennsylvania, notified the claimant Yardmasters to attend a meeting held in his office at 2:30 P. M. on November 24, 1953. At that time the claimants were all working as Trick Yardmasters in Connellsville Yard.

There was one, and only one, reason for holding this meeting in Terminal Trainmaster Colborn's office; the sole reason for holding this meeting concerned itself with the failure of the claimant Yardmasters to perform their duties satisfactorily in Connellsville Yard.

The record over a period of some weeks had described repeated instances of unusual and wholly unnecessary delays to cars being handled in Connellsville Yard.

The delays were attributed directly to the failure of the claimant Yardmasters to handle such cars under their jurisdiction with adequate expedition and dispatch. The record described instances of mishandling or improper handling of certain kinds and classes of cars handled in Connellsville Yard.

To further define the purpose of the meeting, the principal portion of the meeting dealt with a condition related to cars that were delayed. Traveling Car Agents had developed many instances upon checking where cars had been mishandled and thereby unnecessarily delayed during handling in Connellsville Yard. Each particular item was reviewed with the Yardmasters present and the particular occasion of mishandling discussed in detail. At that time it was pointed out that unnecessary delays to cars are fundamentally the responsibility of Yardmasters. At the meeting it was pointed out that such unsatisfactory habits of work were particularly prevalent in the case of cars handled in the "B" Yard at Connellsville Yard. It was pointed out that these cars were not being handled promptly and properly. The necessity for the proper use of Form 2615 was emphasized to underscore the necessity that such delayed cars must be handled on the same trick.

The Carrier reemphasizes the fact that the only reason surrounding the holding of this meeting in the Terminal Trainmaster's office at Connellsville was to discuss this entirely unsatisfactory situation.

Under the circumstances no formal investigation was held. Instead, the Terminal Trainmaster merely pointed out and sought to correct the claimants' deficiencies in this respect. At the meeting the proper procedures were discussed under the various operating rules and manuals. Under the circumstances no disciplinary action was assessed against any of the claimants in this case because of anything brought out or developed at the meeting held on November 24, 1953.

Subsequently, claim was submitted on behalf of the following Yardmasters:

P. B. Daniels	F. R. Reilly
P. A. Jones	R. W. Cover
J. P. Crouse	W. E. Welling
J. T. McCormick	R. N. McClure
C. L. McDonald	F. T. Tripoli
P. J. Rush	L. O. Robinson
P. R. Glass	J. B. Moreland, Jr.

All claims were submitted on an asserted violation of Article 3 or Article 4 of the Yardmasters' contract.

Under date of January 7, 1954, General Chairman Semple addressed the following letter to the Carrier:

"Niles, Ohio
January 7, 1954

Mr. R. L. Harvey, Manager Labor Relations
Baltimore and Ohio Railroad Company
Baltimore, Md.

Dear Sir:

The attached claim for Yardmaster P. B. Daniels and 13 other yardmasters from Connellsville, Pa. has been handled with Superintendent A. W. Colnot, Pittsburgh, Pa. and is being appealed to you for your decision under the present Railroad Yardmasters of America's contract.

The facts in this case are as follows:—

A meeting was called by Terminal Trainmaster Colborn in his office for 2:30 P. M. Tuesday, November 24, 1953 for all the 14 regular and extra yardmasters at Connellsville, Pa. The Notice read as follows:—

All Yardmasters. Connellsville, Pa. Nov. 23, 1953
(Notified by telephone PM 11-23-53)

Yardmaster's Meeting will be held in my office Tuesday November 24th, 1953 at 2:30 P. M.

You will arrange to be present.

P. V. Colborn

This Committee contends that this request to attend meeting in Terminal Trainmasters' Office at Connellsville, Pa. was in violation of Yardmasters Contract.

Therefore, we request these claims be paid for November 24, 1953 and all subsequent claims until this condition is corrected.

Yardmaster Reilly—Was his rest day—Called out at 2:30 P. M.
Yardmaster Cover—Was his rest day—Called out at 2:30 P. M.
Yardmaster Welling—Was his rest day—Called out at 2:30 P. M.

We claim a full day for these three men being called out on their rest days.

Yardmaster McClure—Third trick man—called out at 2:30 P. M.
Yardmaster Tripoli—Third trick man—called out at 2:30 P. M.
Yardmaster Moreland—Third trick man—Called out at 2:30 P. M.

We claim a full day for these four men being called out before their rest.

Yardmaster Daniels—First trick man—worked overtime to 3:35 P. M.

Yardmaster Jones—First trick man—worked overtime to 3:35 P. M.

Yardmaster McDonald—First trick man—worked overtime to

3:35 P. M.

We claim 35 mins. overtime for these three men working until 3:35 P. M.

Yardmaster Rush—Second trick man called 30 min. prior to starting time.

Yardmaster Glass—Second trick man—called 30 min. prior to starting time.

Yardmaster Crouse—Second trick man—called 30 min. prior to starting time.

Yardmaster McCormick—Second trick man—called 30 min. prior to starting time.

We clam 30 mins. overtime for these four men called 30 mins. ahead of starting time.

Please list this case for discussion at our next meeting on January 19, 1953.

Very truly yours,

/s/ Robert M. Semple"

Subsequently, under date of March 8, 1954, Mr. Semple addressed the following letter to the Carrier:

"Niles, Ohio
March 8, 1954

Mr. R. L. Harvey, Manager Labor Relations
Baltimore and Ohio Railroad Company
Baltimore, Md.

Dear Sir:

Referring to my letter of January 7, 1954 to you in regard to the claims of certain yardmasters at Connellsville, Pa. for attending meeting in Terminal Trainmasters Office on November 24, 1953 I wish to amend my claims for the following yardmasters.

Yardmaster Reilly—Called out at 2:30 P. M.—Was his rest day.
Yardmaster Cover—Called out at 2:30 P. M.—Was his rest day.
Yardmaster Welling—Called out at 2:30 P. M.—Was his rest day.

I wish to amend my claim from a full day for these three men to a day at time and one-half account of this being their rest day.

Yardmaster McClure—Called out at 2:30 P. M.—Third trick man.
Yardmaster Tripoli—Called out at 2:30 P. M.—Third trick man.
Yardmaster Robinson—Called out at 2:30 P. M.—Third trick man.
Yardmaster Moreland—Called out at 2:30 P. M.—Third trick man.

I wish to amend my claim from a full day's pay for these four men.

to two hours at time and one-half. I am claiming this time for these four men under Article 3, paragraph (d) which reads in part as follows:

'Yardmasters notified or called to perform work not continuous with, before, or after the regular work period will be allowed a minimum of three hours for two hours work or less.'

In regard to the claim for the above three Yardmasters, Reilly, Cover and Welling, I am claiming time and one-half account of under rules of the Yardmasters Agreement, Article 4, which reads in part as follows:

'and if required to work on such regularly assigned relief day will be paid therefor at the rate of time and one-half, based on their daily rate.'

Very truly yours,

/s/ Robert M. Semple
General Chairman"

The factual record establishes that Yardmasters Daniels, Jones and McDonald held regular assignments as Yardmasters on the first trick; Yardmasters Rush, Glass, Crouse and McCormick held regular assignments on the second trick; Yardmasters McClure, Tripoli, Robinson and Moreland held regular assignments on the third trick; Yardmasters Reilly, Cover and Welling had November 24, 1953 as their relief days.

Yardmasters Daniels, Jones and McDonald are claiming 35 minutes at the time and one-half rate; Yardmasters Crouse, McCormick, Rush and Glass are claiming 30 minutes at the time and one-half rate; Yardmasters McClure, Tripoli, Robinson and Moreland are claiming 2 hours at the time and one-half rate; Yardmasters Reilly, Cover and Welling are claiming 8 hours at the time and one-half rate.

The claims from Yardmasters Reilly, Cover and Welling are being made under an asserted application of Article 4 of the Yardmasters' contract. The claims from Yardmasters McClure, Tripoli, Robinson and Moreland are being made under an asserted application of Article 3 (d) of the Yardmasters' contract. The balance of the claims arise under the asserted application of Article 3 of the contract.

Article 3 captioned "BASIC DAY, OVERTIME, STARTING TIME AND CALL" of the contract reads in full as follows:

"(a) Eight (8) consecutive hours or less shall constitute a day's work, except as provided in paragraph (d) of this Article.

(b) All time in excess of eight (8) hours shall be paid for at the rate of time and one-half. The time consumed in making the transfer shall not be counted as overtime.

(c) No regular shift shall begin work between the hours of Midnight and 6:00 A. M.

(d) Yardmasters notified or called to perform work not continuous with, before, or after the regular work period will be allowed a minimum of three (3) hours for two (2) hours work or less, and if held on duty in excess of two (2) hours time and one-half will be allowed on the minute basis, provided that yardmasters who have completed their work period for the day and been released from duty, required to return for further service, may, if conditions justify, be paid as if on continuous duty."

Article 4 captioned "RELIEF DAYS" reads:

"(a) Regularly assigned Yardmasters will be assigned one (1) regular relief day in seven (7), without deduction for such relief day from their established monthly rate, provided they have performed service as a yardmaster or General Yardmaster on not less than three (3) days in the six (6) day period next preceding the regularly assigned relief day, and if required to work on such regularly assigned

relief day will be paid therefor at the rate of time and one-half, based on their daily rate. Relief Days shall be arrived at by conference between the Committee and the General Yardmaster or other proper officer.

(b) Where relief requirements at any point make it possible to assign a relief Yardmaster regularly for six (6) days in seven (7) consecutive days, relief Yardmaster positions shall be established by bulletin and filled in accordance with Article 9.

“(c) An extra or unassigned Yardmaster who works seven (7) consecutive days shall be paid at the rate of time and one-half for the seventh (7th) day, based on the daily rate of the position worked on the seventh (7th) consecutive day of service.”

POSITION OF CARRIER:

CARRIER’S ARGUMENT:

WHAT THIS CASE CONCERNS:

The issues in this case are comparatively simple. The Yardmasters’ Committee says that when the claimants were required to attend this meeting they qualified for additional compensation on the asserted basis that this was “work” within the meaning of the rule. The Committee does not say that the Yardmasters’ attendance at the meeting was a part of their regular assignments.

When this case was discussed on the property of the Carrier the Yardmasters’ Committee contended that these claims were valid under an asserted application of Article 3 and Article 4 of the Yardmasters’ contract.

By and large, this entire subject (as it occurs and arises on the property of the Baltimore and Ohio Railroad) has already been before this labor tribunal; the same arguments made by the Committee here have already been pleaded before this Board; the contentions of the parties as a general issue have already been submitted to this Board. Actually this entire matter (and the principles at issue) have already been adjudicated before this Board. Quite frankly, the Carrier is at a loss to understand the presentation of this kind of claim.

ON THIS RAILROAD THERE IS ALREADY A PRINCIPAL RULING ON THIS ISSUE: The Carrier refers to this Division’s Award No. 597. It involved the same parties herein present in the instant dispute; i.e., the Railroad Yardmasters of America and The Baltimore and Ohio Railroad Company.

The “STATEMENT OF CLAIM” in Award 597 reads:

“STATEMENT OF CLAIM: Claim of the Railroad Yardmasters of America that—

1. Yardmaster W. J. Foley be allowed a minimum day of eight (8) hours at overtime rate account required to attend meeting in the office of Terminal Trainmaster on his regular assigned rest day, March 26, 1948.

2. Yardmaster J. W. Lewis and A. M. French each be allowed two (2) hours at overtime rate account required to attend meeting in the office of Terminal Trainmaster on March 26, 1948.

3. Yardmasters S. S. Morningstar and J. J. Milan each be allowed eight (8) hours at overtime rate account required to attend meeting in the office of Terminal Trainmaster on March 26, 1948.

4. Yardmaster R. T. Joyce and E. L. Klaus each be allowed two (2) hours and fifteen (15) minutes at overtime rate account required to attend meeting in the office of Terminal Trainmaster on March 26, 1948."

The "EMPLOYES' STATEMENT OF FACTS" in Award 597 reads:

"Claimants in this case were required by the Carrier to attend a meeting outside their regular assigned hours, in the office of the Terminal Train Master on March 26, 1948.

Claims for the Yardmasters involved were made in accordance with the provisions of Rules 3 and 4 of the effective Agreement.

Following denial by Superintendent the claims were progressed to the highest Officer designated by the Carrier to handle such matters."

It will be observed that in the matters at issue in Award 597 the claims came from Yardmasters who were on their rest days and from Yardmasters required to attend the meeting on days which were not rest days.

In Award 597 the argument advanced by the Yardmasters' Committee took the following direction:

"Rule 3 reads in part as follows:

'3a—Eight (8) consecutive hours of less shall constitute a day's work, except as provided in paragraph (d) of this Article.'

'3b—All time in excess of eight (8) hours shall be paid for at the rate of time and one-half.'

'3d—Yardmasters notified or called to perform work not continuous with, before or after the regular work period will be allowed a minimum of three (3) hours for two (2) hours work or less, and if held on duty in excess of two (2) hours time and one-half will be allowed on the minute basis, provided that yardmasters who have completed their work period for the day and been released from duty, required to return for further service, may, if conditions justify, be paid as if on continuous duty.'

Rule 4 reads in part:

'4a—Regularly assigned Yardmasters will be assigned one (1) regular relief day in seven (7), without deduction for such relief day from their established monthly rate, provided they have performed service as Yardmaster or General Yardmaster on not less than three (3) days in the six (6) day period next preceding the regularly assigned relief day, and if required to work on such regularly assigned relief day will be paid therefor at the rate of time and one-half, based on their daily rate.'

"The excuse on which these Yardmasters were called to the office of the Terminal Train Master was a general one and for the purpose of discussing operating conditions and situations in general. No specific charges of failure were cited and no definite responsibility was established. This being so, then the purpose of the meeting was definitely for the benefit of the Carrier and not for the employees." In its position the Committee argued:

"The question at issue here then is whether or not the service performed was 'work' within the meaning of the applicable rules. Award 417 above referred to definitely establishes that on the basis of the purpose to be served, it was 'work' within the meaning of the rules."

(a) The Carrier advances its contention in Award 597:

The Carrier desires to refer briefly to the argument it advanced in the claim decided in Award 597. There the Carrier argued:

"The definitive nature of the wage claims presented herein is manifest. First of all, claims have been submitted on behalf of three trick yardmasters, Claimants W. J. Foley, S. S. Morningstar and J. J. Milan, that they are properly entitled to additional compensation amounting to eight (8) hours at the overtime rate of pay. Secondly, claims have been submitted by two trick yardmasters, Claimants R. R. Joyce and E. L. Klaus, for two (2) hours and fifteen (15) minutes at overtime rate and by two yardmasters, Claimants J. W. Lewis and A. M. French, for two (2) hours at overtime rate of pay. It is not disputed in this case that all of the claimants found herein were required to appear for this meeting at sometime other than that represented by their regularly assigned tours of duty.

"When this case was discussed in conference the employees advanced the primary allegation that the claimants were properly entitled to overtime rate of pay on the basis set forth hereinabove under the proper application of paragraphs (a), (b) and (d) of Article 3, in the Yardmasters' Working Agreement. It being apparent that paragraphs (a) and (b) of Article 3 are concerned solely with defining the basic day and basic overtime, the only dispute arising here relates to the proper application of paragraph (d) of that rule, the so-termed 'Call Rule.'

"Paragraph (d) of Article 3 reads as follows:

'(d) Yardmasters notified or called to perform work not continuous with, before or after the regular work period will be allowed a minimum of three (3) hours for two (2) hours work or less, and if held on duty in excess of two (2) hours time and one-half will be allowed on the minute basis, provided that yardmasters who have completed their work period for the day and been released from duty, required to return for further service, may, if conditions justify, be paid as on continuous duty.'

The definitive nature of the claims found here demonstrates that what the claimants seek in effect is a measure of payment at an overtime rate of pay. There being no dispute then as to this basic proposition, the Carrier submits the only portion of paragraph (d) of Article 3 upon which this dispute may properly rest is that portion reading as follows:

'(d) Yardmasters notified or called to perform work not continuous with, before, or after the regular work period will be allowed a minimum of three (3) hours for two (2) hours work or less, and if held on duty in excess of two (2) hours time and one-half will be allowed on the minute basis. * * *.'

The Carrier recognizes that there is but one pertinent question emergent in this dispute. That question simply relates to the proper meaning and intent of the word '* * * work * * *' to be found in that portion of Article 3(d) quoted hereinabove.

Proper answer to this question must necessarily reside in a determination of the actual factual record in this dispute. It goes without dispute that the claimant yardmasters in this case were specifically not required to pursue any manner of '* * * work * * *' such as that properly required of them during the course of

their regular tours of duty. All they did was to attend a meeting in the Terminal Trainmaster's Office at which time discussion was had relating to their failure to comply with the regulations of the 'SX' Operating Manual No. 1. Similarly, it cannot be subjected to substantial question but that the only instruction the claimant yardmasters received at that time was directly related to the correction of their deficiencies and to the proper performances of those tasks which were then, and are now, required of all employees working as yardmasters on this property. Under the circumstances, it is apparent that the claimant yardmasters were specifically not required to perform any '* * * work * * *' within the meaning or application of any provision to be found in Article 3 of the Yardmasters' Agreement."

When this case was discussed on the property the Yardmasters' Committee offered no argument and made no argumentation substantially different from that already made in Award 597.

Actually, that argument and those arguments were not upheld before this labor tribunal. There this Board ruled:

"The claimants in this dispute are asking for overtime for attending a meeting called at the Terminal Trainmaster's office for March 26, 1948. The purpose of the meeting, according to the joint statement of facts submitted to this Board, was as follows:

'On March 26, 1948, all Trick Yard Masters of Glenwood were ordered to attend a meeting in Terminal Train Master's Office relative to failure of carrying out instructions of SX cars.

Trick Yardmasters claimed overtime for time held on duty after regular relieving time and starting in advance of regular time, which was declined.'

The Employees contend that the reason for the meeting was a general one and for the purpose of discussing operating conditions and situations in general; that no specific charges of failure were cited and no definite responsibility was established; and that the purpose of the meeting was definitely for the benefit of the Carrier and not the employees.

The Carrier contends that the meeting was held to discuss with the claimants their failure of carrying out instructions to SX cars.

The awards relied upon by the Employees refer to meetings called by the Carrier regarding safety measures or matters that are for the sole benefit of the Carrier.

The Employees argue that because they did not receive any discipline from the Carrier growing out of this meeting concerning their failure to follow the handling of the 'Sentinel Service' according to procedure outlined in the "SX" Operating Manual, and due to the fact that the meeting was for the benefit of the Carrier, they should be compensated for time spent at the meeting, under the rules applicable.

From the record as a whole, the Board finds that the purpose of the meeting was for the claimants' benefit; that even though the claimants were not disciplined it cannot be taken that the meeting was for the Carrier's benefit or its own interest. Moreover, the rules cited by the Employees are not applicable under the circumstances of this claim since the present Agreement is silent as to the payment for time spent by the claimants at a meeting for their own benefit. Therefore, said claims should be denied."

(The complete citation of "OPINION OF BOARD").

The claim in Award 597 was denied.

As to factual record Award 597 can be summarized:

This Division in Award 597 was confronted with a factual record which described at least in part:

- (1) The claimants were all assigned as Yardmasters at Glenwood Yard, Pittsburgh, Pennsylvania.
- (2) All were concerned in an affair that described an unsatisfactory condition relating to the handling of certain kinds and classes of cars.
- (3) All were summoned informally to appear for a meeting in the Terminal Trainmaster's office.
- (4) At the time of the meeting the entire subject was reviewed with the Yardmasters.
- (5) In some cases the Yardmasters were on their rest days; in others, they were not.
- (6) In some cases the Yardmasters claimed minimum days of eight hours; in others, they claimed time amounting to as much as two hours and fifteen minutes at the overtime rate. In all instances claim was made at the overtime rate.
- (7) All claimed on the asserted basis that their attendance at the meeting had been "work" within the meaning of the rules.
- (8) The Committee argued on an asserted application of Article 3 and Article 4 of the Yardmasters' Contract.
- (9) The Committee claimed especially for the reason that "no specific charges of failure were cited and no definite responsibility was established."
- (10) The Committee argued "this being so, then the purpose of the meeting was definitely for the benefit of the Carrier and not for the employees." The record establishes that this Division in awarding the verdict in Award 597 specifically overruled these particular contentions.

CARRIER'S SUMMARY: The Committee here is left with a considerable burden in this case. That burden is to demonstrate that the principles enunciated in Award 597 are without application to the instant case.

But the factual record here describes an instant comparability between what the Committee argued in Award 597 and the argument advanced in the present dispute.

In this case they even do more than just this. On the factual record, taken point by point, they show an instant comparability and identity.

In both cases the Committee placed reliance, and prime reliance, on an asserted application of Article 3, and Article 3(d) in specific, and Article 4 appearing in the Yardmaster's Contract.

In both instance the Committee has argued what was required of the claimants constituted "work" within the meaning of the rules in the Yardmasters' Agreement.

In neither case was any formal charge of failure cited.

In neither case was any definite responsibility established.

All in all, it is a fair and tolerable conclusion that in Award 597 this Division ruled on the precise issues arising in the instant case. The claims in that case were denied.

The Carrier asserts the absence of any rule appearing in the applicable contract which would operate to support these claims.

On the basis of all that is herein contained the Carrier respectfully petitions this Division to hold these claims as being without merit and to deny them accordingly.

Oral hearing is requested.

OPINION OF BOARD: This is a request for pay for attending a yardmasters meeting called by the Company's trainmaster at its Connellsville, Pa., Terminal on November 24, 1953. Three of the yardmasters were held for 35 minutes beyond their regular quitting time and are requesting premium pay for that period (Article 3 (b)). Four of the claimants were required to appear 30 minutes before their regular starting time and are claiming time and one-half pay under the same rule. Three are claiming pay for being called in on their relief day (Article 4 (a)). And four of the claimants are third trick employes claiming time and one-half pay for reporting on a call (Article 3 (d)).

The Carrier contends that such service on the part of the yardmasters is not "work" as contemplated by the language of Articles 3 and 4 of the agreement and, therefore, requires no premium pay.

The meeting was called for the purpose of improving the efficiency of operations in the yards. The attendance of yardmasters was necessary; and their attendance was required by the Carrier. To argue that this was not yardmasters' work is without basis. And to claim that the agreement rules set forth in Articles 3 and 4 do not apply is to ignore the plain and simple facts of the situation.

If the Carrier is permitted to impinge upon an employe's free time by requiring him to perform special service such as this by simply saying that this isn't "work", soon the employe may have no time he can call his own. The provisions of Articles 3 and 4 were negotiated for the distinct purpose of requiring extra pay for extra work. And as we see the meeting at the Connellsville, Pa., Terminal on the afternoon of November 24, 1953, it was a part of the yardmasters' required duties. In our opinion it was yardmasters' work and should be paid for at the rates prescribed in the agreement.

This claim is sustained.

FINDINGS: The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

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The parties to said dispute were given due notice of hearing thereon.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By order of Fourth Division

ATTEST: R. B. Parkhurst
Secretary

Dated at Chicago, Illinois, this 3rd day of December, 1954.