

Referee Irwin M. Lieberman

PARTIES Railroad Yardmasters of America
TO
DISPUTE: Norfolk and Western Railway Company (Lake Region)

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:

Yardmaster W. P. Otto be allowed punitive rate for March 6, and March 7, 1974 for attending "First Line Supervisory Training" at Cleveland, Ohio.

Yardmaster J. E. Brown be allowed punitive rate for June 10, and June 11, 1974 for attending "First Line Supervisory Training" at Cleveland, Ohio.

OPINION OF BOARD: Claimants herein were required to attend a class for two days entitled "First Line Supervisors' Training". The classes, held in cooperation with the University of Virginia, took place some 65 miles from their home terminal. Travel and lodging costs were paid by Carrier and both men also received pro rata pay for the two days. Claimants had informed their Supervisor that the days scheduled were on their rest days and were instructed to attend anyway. The record indicates, without rebuttal, that Carrier had changed the attendance dates at other locations where there was a conflict with rest days. Claimants both request punitive pay for service performed on their rest days.

Petitioner argues that attendance at the classes was solely for Carrier's benefit and not for the employees'. It was obligatory and for the purpose of helping them perform their jobs more effectively, solely for the benefit of Carrier. Petitioner contends that the attendance at these classes was "work" and should be compensated accordingly.

Carrier takes the position that the seminars were primarily for the benefit of the employees. It is argued that many awards have held that employees may be required to attend meetings which will primarily benefit the employe, or where it is of mutual benefit to the employe and the Carrier and that attendance at such meetings does not constitute "work".

Carrier has cited a number of Awards in support of the thesis that attending the classes herein did not constitute work. Similarly, Petitioner has indicated contrary authorities. In examining the awards cited by Carrier we note that most of those awards deal with classes on operating rules and safety rules and other training directly related to new processes essential for employes to know. For example, in Award 3269, we said:

"The awards which have denied compensation for attendance at rules classes have found that knowledge of, and proficiency in, operating rules are so integrally related to the employe's effective performance of his job, that he could be required to attend such classes without receiving additional compensation. In light of the existing precedents that the Claimant Yardmasters are not entitled to compensation for attending periodic rules examination classes, we must deny the claim."

Contrarily, in Third Division Award 10808, which concerned required attendance at classes entitled "Transportation Education Program", the Board held:

"....we are of the opinion that any time of the Employe directed by the Carrier is work or service, with certain exceptions. Two exceptions are where such time is for the primary benefit of the Employe and in cases where mutuality of interest exists. Awards have held that classes on operating rules and safety rules are such exceptions. We are not inclined to enlarge upon those awards."

In the dispute before us attendance at the classes was mandatory and it is also interesting to note that Carrier, although stating on the property that there was no rule requirement for any compensation, did indeed compensate other employes for attendance at the same classes on their regularly assigned work days. To accept Carrier's reasoning all training programs, regardless of purposes cannot be considered to be work, within the meaning of that term in the Agreement. We do not agree. The purpose of the program is relevant and must be considered in each instance. If training were for the purpose of qualifying an employee to retain his position (e.g. rules examination classes) or for the purpose of qualifying for promotion or for the purpose (among others) of learning new procedures we would not allow a claim for overtime compensation such as that requested herein. Such programs are either for the primary benefit of the employe or mutually advantageous to Carrier and employes. In this case,

as in any other general training programs to increase the efficiency of the employes, we must conclude that the program is for the primary benefit of Carrier and must be construed as work. Accordingly, we find that Claimants did perform a service when they attended the classes on their rest days and should have been paid for such attendance at the time and one-half rate.

FINDINGS:

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

The carrier and the employe 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.

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

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:

Executive Secretary
National Railroad Adjustment Board

By 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 11th day of March 1976.