AWARD NO. 42
CASE NO. 42

PUBLIC LAW BOARD NO. 5633

PARTIES) NORFOLK SOUTHERN RAILWAY COMPANY
TO )
DISPUTE) UNITED TRANSPORTATION UNION

STATEMENT OF CLAIM: Claim of Atlanta Terminal Yardman W. L. Davis for payment of overtime on October 9, 1995 accound required to attend Quality Training workshop on his rest day.

FINDINGS: Upon the whole record, after a hearing, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

In this dispute the claimant yardman attended a quality class on his day off. The claimant was compensated for eight hours at the straight time rate of pay for attending this class. The claimant had claimed he was entitled to eight hours pay at the overtime rate. The difference between what the claimant claimed and what he was paid was declined. It was the Carrier's refusal to pay the claim which resulted in the dispute herein.

An appeal was progressed by the Organization on the claimant's behalf. The Organization maintains that Article 3, Section D (Overtime - Five Day Work Week) of the Agreement is controlling herein. The pertinent part of that rule provides:

> "Employees worked more than five straight time eight-hour shifts in yard service in a work week shall be paid one and one-half times the basic straight time rate for such excess work . . ."

The Organization contends that the claimant was required to perform service for the benefit of the Carrier on his rest day, and therefore, Article 3 requires that he be compensated at the overtime rate. In addition, the Organization cites Fourth Division Award No. 3325 and Award No. 64 of Public Law Board No. 1790 which support this position.

The Carrier insists that Article 3, Section D does not govern the amount of compensation due the claimant for attending a quality class on his rest day. The Carrier urges that such attendance is not service or work as these terms are construed under the Five Day Work Week rule. Rather, the Carrier contends, attendance at the quality meeting is a mutually beneficial endeavor for which the claimant has been properly compensated under its policy of

paying either (1) payment of lost earnings if required to attend such meeting on a work day, or (2) payment of eight hours at the straight time rate if required to attend such meeting on a rest day.

The Carrier further contends this compensation is not mandated by any agreement. The Carrier relies upon Second Division Award No. 12235 which denied a claim under an identical set of facts.

The Board has carefully examined the rule relied upon by the Organization and the well articulated arguments and citations submitted by both parties. The Board believes that the awards cited by the Organization are factually distinguishable from the claim at issue. On the other hand, the Board finds that the decision which the Carrier cites involved the identical issue which is involved in the instant dispute. Award No. 12235 of the Second Division held:

> "As this Board held in Award No. 12234, we read this Rule to apply only when the employee is actually performing work or service. There is no evidence Claimant performed any productive work as part of this class."

The Board finds no reason to reach a different conclusion than that reached Award No. 12234 cited above. Attendance at a quality class is neither work nor service as contemplated by the Five Day Work Week rule. There is no agreement support for compensation at the overtime rate of pay for attending a quality class on an off day.

AWARD: Claim denied.

Preston J. Moore, Chairman

Union Member

Robert J. Kuhn
Carrier Member

NORFOLK, VIRGINIA
July 25th, 1996