

Award No. 5407
Docket No. 5274
2-IC-EW-'68

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Electrical Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the current agreement at the Paducah Diesel Shop when they refused to pay the Local Committee while attending a conference with the Local Officials during their regular working hours on April 15, 1965.

2. That the Carrier compensate the Local Committee, consisting of P. E. Moore, R. H. Barmore, and C. A. Moores, Jr., for three (3) hours each at the pro rata rate.

EMPLOYEES' STATEMENT OF FACTS: This Local Committee, consisting of P. E. Moore, R. H. Barmore, and C. A. Moores, Jr., hereinafter referred to as the Claimants, is the duly authorized committee to represent the Electrical Workers on the Kentucky, Tennessee, and St. Louis Division South on the Illinois Central Railroad Company, hereinafter referred to as the Carrier.

Grievance rules on this seniority district require that the Local Committee handle grievances with the General Foreman and Master Mechanic.

The Local Committee must also hold conferences with the Local Officials, consisting of the General Foreman and Master Mechanic.

Claimants requested a conference with Master Mechanic J. N. Fox to discuss grievances they were handling with the Local Officials. Carrier complied with this request and arranged a conference to be held in the Division Electrical Foreman's office in Fulton, Kentucky. Claimants met with Carrier's Representative, Assistant Master Mechanic N. E. Lahndorff, in this conference on April 15, 1965.

This dispute has been handled with all officers of the Carrier designated to handle such disputes, including Carrier's highest designated officer, all of whom have declined to make satisfactory adjustment.

The agreement effective April 1, 1935, as amended September 1, 1949, as subsequently amended, is controlling.

during working hours. The company has always paid local committeemen for attending conferences with local officials at their home point. For example, Fulton Local Committeeman L. N. Dane did not lose any time when he attended the April 15 meeting at Fulton.

Many rules provide benefits or privileges for certain employees that they do not provide for others. Rule 37 is such a rule. It provides local committeemen with the opportunity to discuss grievances during working hours at their home point without loss of time; it does not grant this privilege to other employees or other union officials. If the union believes that there was discrimination, it logically follows that that last paragraph of Rule 37 is inherently discriminatory. Therefore, the union must argue that any provision in an agreement which provides benefits to some employees and some union officials and not to others is inherently discriminatory. The company has treated all local committeemen fairly and equally and has not done anything to interfere with their union activity. The charge of discrimination is entirely without merit.

IV. CONCLUSION

The brotherhood contends that the claimants who worked at Paducah were local committeemen and entitled to compensation under Rule 37 for unexpectedly attending a meeting with non-Paducah officials over Fulton grievances at Fulton, Kentucky. They also alleged discrimination under Rule 41.

The company pointed out that the meeting at Paducah was not a scheduled conference as intended under Rule 37 since two of the participants were not entitled or scheduled to attend. The company showed that the claimants were not local committeemen, but were actually district or division officials. It also pointed out that a local committeeman by definition is confined to a particular plant or point. The company demonstrated that if the union's position were followed to the logical conclusion, the railroad would suffer a great unnecessary loss of time and expense. In addition, the company proved by an interpretation made by Manager of Personnel Young and Union General Chairman Cruse in 1938 that Rule 37 does not provide for compensation for local committeemen when they travel away from their home point to attend conferences with officials of other points.

The Brotherhood's charge of discrimination against the claimants under Rule 41 is without merit.

All data is known to the union and has been made a part of the dispute.

Management waives oral hearing unless it is requested by the union, but reserves the right to answer its submission.

We ask the Board to uphold the parties long standing interpretation of Rule 37 as evidenced by the 1938 Interpretation and deny this claim.

(Exhibits not reproduced.)

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Parties to said dispute waived right of appearance at hearing thereon.

Petitioner contends that three claimants, who constitute the duly authorized grievance committee on Carrier's District Number 13, were deprived of their regular compensation while meeting with "local" officials of the Carrier concerning grievances at Fulton, Kentucky on April 15, 1965. Petitioner avers that Local Chairman Paul E. Moore, Paducah Committeemen R. H. Barmore and C. A. Moores, Jr. are entitled to three hours pay each for attending the Fulton meeting under Rules 37 and 41 of the Schedule Agreement between the parties. The pertinent language of Rule 37 provides:

"All conferences between local officials and local committees to be held during regular working hours without loss of time to committeemen."

Rule 41 provides:

"The company will not discriminate against any committeemen who, from time to time, are delegated to represent other employes, and will grant them leave of absence and free transportation when not contrary to the general practice in effect on the properties, regarding the restriction of such transportation."

Carrier contends that claimants attended the meeting at Fulton, Kentucky at the request of Chairman Paul E. Moore to discuss pending grievances at Fulton and not grievances at Paducah, the local seniority point where all three Claimant are regularly assigned and also serve as Members of the local grievance committee. It is also the position of Carrier that the meeting was held with officials of the Carrier from Memphis, who are not "local officials" at Paducah, and that prior interpretations of Rule 37 have established that said Rule does not provide for compensation for local committeemen when they travel away from their home point to attend conferences with Carrier's officials from other points.

The thrust of Petitioner's averment is that the Claimants were duly designated "local" committeemen certified for the "territory" involved, which included both Paducah and Fulton. However, no probative evidence was offered to refute Carrier's contention that no similar payments for such conferences away from Paducah have been allowed in the past.

Careful examination of Rule 37 clearly discloses that the type of conference to be held during regular working hours without loss of time to committeemen is confined to those between "local" officials and "local" committees. Apparently, Claimants in this dispute served both as "local committeemen at Paducah and as the duly constituted District Grievance Committee with jurisdiction throughout the territory encompassed by District No. 13, which includes Fulton, Kentucky. Furthermore, it is undisputed that the meeting held at Fulton was for the purpose of considering grievances at Fulton, and that the "local" Committeeman at Fulton attended said meeting during working hours for which he was compensated by the Carrier.

The pertinent language of the Agreement is clear and unequivocal and no evidence of conflicting past practice is before us.

The awards cited by Petitioner in support of the instant claim are readily distinguishable as this case involves consideration of grievances arising at a separate location by Members of a District Grievance Committee, who are regularly assigned to another seniority point. Moreover, the meeting held on April 15, 1965 was arranged at the request of one of the claimants and did not constitute an investigation under the Discipline Rule. In view of the foregoing, the claim must be denied.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1968.