

The Second Division consisted of the regular members and in addition Referee James F. Searce 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 Gulf Railroad Company

Dispute: Claim of Employees:

1. That the Illinois Central Gulf Railroad violated the current agreement and the findings of Public Law Board 1540 when the Maintenance of Way electricians with headquarters at 53rd Street Chicago, Illinois was denied reimbursement for their noon meal expense when working away from their headquarters, while on road work.
2. That the claimants be compensated for their actual expense for their meals while on road work away from their headquarters point beginning February 16, 1976 to February 29, 1976 as follows: D. P. Voights - \$20.02, C. F. Taskas - \$11.50, R. E. Davis - \$16.38, T. P. Kelly - \$20.27, A. B. Lashau - \$20.53, R. Mendicino - \$1.62, J. A. Mendrala - \$4.30, Kenneth J. Vittek - \$18.11.

Findings:

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

The carrier or carriers and the employe or employees 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.

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

Claims set forth herein were raised following issuance of the Award in Public Law Board 1540, which determined that the Carrier could not unilaterally terminate payment for noon meals, where a long-standing past practice of doing so conflicted with contractual language that could be construed to the contrary. The Organization also cites Rule 12-C of the "B" Agreement as substantiation of its position:

EMERGENCY SERVICE - ROAD WORK
FOR MEN EMPLOYED

"Rule 12. Employees sent out on the line of road to fill vacancies or to perform any other work shall be allowed time as follows:

A

B

C While Waiting

..... Where meals and lodging are not provided by the railroad, actual expenses will be allowed and employees will receive all expense allowance not later than the time they are paid for the service rendered."

The Claimants herein are maintenance electrical employees, headquartered at the Carrier's 53rd Street facility in Chicago. As such, they perform electrical maintenance within the Chicago Terminal area and to an extent on the Chicago Division. The thrust of the Organization's case is that the work of the Claimants takes them sufficiently far away from their headquarters at 53rd Street, to preclude them from returning for their noon meal, and thus are deserving of reimbursement for the cost of such meals. The Carrier contends that the provisions of Rule 16 are controlling here which explicitly excludes pay for a meal, except where such work does not permit a return to headquarters the same day:

OVERTIME, REGULARLY ASSIGNED
ROAD WORK, HOURLY BASIS

"Rule 16. Hourly-rated employees who perform service ordinarily requiring them to leave and return to home station (or camp cars) daily, will be paid continuous time, exclusive of meal period, from time of reporting for duty until released at home station, straight time for all straight time work, overtime for all overtime work, straight time for all time traveling or waiting.

When such employees do not return to headquarters the same day, they shall be allowed actual expenses for meals and lodging and shall be paid for time traveling or waiting for trains at pro-rata rate and for time actually worked in excess of eight (8) hours in accordance with this schedule....."

The holding of FIB 1540 went directly to the "Statement of Claim" placed before that forum

"Can the Carrier discontinue the payment of meal expenses of the Employees on days when they are away from their Headquarters at meal time, but they start and end their workday at their Headquarters?" (Emphasis added herein)

In that case, it was clearly established that the Claimants had been regularly and continuously paid for their meals over a sufficiently extended period to represent a past practice. Thus, the Carrier was endeavoring to overturn an established past practice in light of long-standing contractual language; the Organization prevailed. Here, the Carrier contends and the Organization does not refute, that employees assigned to this work group -- the 53rd Street Electrical Maintenance Group -- have historically not been paid for such meals. The application of PIB 1540 elsewhere depends upon a showing that the circumstances that framed the Claim in that dispute and the Award that issued therefrom are sufficiently similar to establish application; here, such is not the case. We are not inclined to extend the findings of PIB 1540, which was predicated on a specific circumstance -- the upsetting of a long-established past practice -- to a general proposition which has as its nexus to the situation in PIB 1540 that employees leave and return to their headquarters the same day.

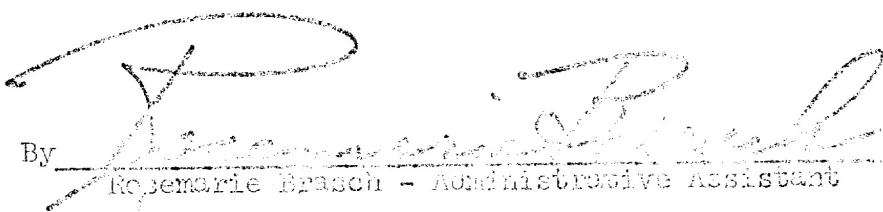
A W A R D

Claims are dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of January, 1979.