Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 11050
SECOND DIVISION Docket No. 11014
2-CR-EW-'86

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(
(Consolidated Rail Corporation (Conrail)

Dispute: Claim of Employes:

1. That under the current Agreement, particularly the Agreement between the Electrical Workers and the former Lehigh Valley Railroad effective July 1, 1975, the Consolidated Rail Corporation (Conrail) should be ordered to allow the claim of Line Foreman M. E. Quinn and D. P. Wassel for Traveling Allowance from Pittston Yards to Bethlehem Interlocking and return for various dates in the month of May 1983.

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 employes involved in this dispute are respectively carrier and employes 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.

On June 27, 1975 the Lehigh Valley Railroad Company entered into an Agreement with the International Brotherhood of Electrical Workers, which represented the line gang employees, to allow the Carrier to remove camp car facilities and substitute travel time. Employees required to travel more than 32 miles each way from the railroad station point nearest their home community to the railroad station point nearest their headquarters would be compensated at the ratio of 1/50 of an hour for each mile so traveled. Subsequently, the Consolidated Rail Corporation assumed the operations of the Lehigh Valley Railroad. During May of 1983, the Claimants, M. E. Quinn and D. P. Wassel, were transferred from the Carrier's Pittston yards to the Carrier's Bethlehem Interlocking facility. The Claimants submitted a Claim for travel allowances of $512 for travel which occurred during May of 1983.

The Organization argued that the Agreement of June 27, 1975 was still in effect. On February 23, 1982, the Carrier sent a letter to the Organization abrogating the Agreement. The Organization does not agree to the rescinding of the 1975 Agreement. The Organization argues the Carrier did not follow the provisions of the Railway Labor Act.

The Carrier argued the Claim was procedurally defective in that no Claim was properly submitted in accordance with the Schedule Agreement, specifically, Rule 4-P-1. No Claim was received citing a violation of the Agreement, therefore the Claim should fall. In addition, the Carrier argues the Agreement relied upon by the Organization was not contained in the new Schedule Agreement between the Consolidated Rail Corporation and the Brotherhood of Electrical Workers. However, the Agreement was kept in effect until February 1, 1982. The Carrier notified the Organization that the Agreement was abrogated effective February 1, 1982 in a letter dated February 23, 1982. Finally, the Carrier notes that, even if the Agreement would be found to be in effect, it does not provide for the type of compensation claimed by the Claimants. It only provides for a payment of 1/50 of an hour's pay for each mile traveled providing the travel is in excess of 32 miles.

The Board, upon complete review of the evidence, finds the procedural arguments made by the Carrier do not stand, as the Organization provided both the copy of the Travel Expense Forms submitted and a copy of the Travel Agreement the Organization was relying on. Certainly, this complies with the criteria listed in Rule 4-P-1 (b) of the Schedule Agreement. With respect to the merits of the case, the Board finds there was an Agreement with the previous Carrier, in effect and the Agreement between Consolidated Rail Corporation and the International Brotherhood of Electrical Workers, which was effective May 1, 1979, extended those special Rules. The procedure for changing rates of pay, Rules and working conditions is contained in the Railway Labor Act. The only evidence that the Carrier submitted regarding the discontinuance of the Agreement was a letter dated February 23, 1982. This was a unilateral action on the part of the Carrier. This letter was disputed by the Organization in a response dated March 16, 1982. In the absence of a Mutual Agreement or Notification as required in the Railway Labor Act, the Agreement of June 27, 1975 must be found to still be in effect. However, this Agreement does not provide for the kind of compensation that was claimed by the Claimants. The Board will allow, provided the travel distance was over 32 miles as stated in the Agreement, 1/50 of an hour's pay at their hourly rate in effect at that time for each mile traveled during the month of May, 1983; and the Claim will be sustained to that extent.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1986.