

Award No. 2140

Docket No. 2095

2-AT&SF-EW-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement, the carrier erred when they refused to reimburse Electricians Glen P. Curto and Clark Stanley, for the cost of their noon meals, while away from home point.

2. That accordingly, the carrier be ordered to reimburse Electricians Glen P. Curto and Clark Stanley, the cost of their noon meals in the following amounts:

Cost of noon meals to Mr. Curto	Cost of noon meals to Mr. Stanley
Saturday April 3rd — \$1.25	Saturday April 3rd — \$1.25
Saturday April 10th — .85	Saturday April 10th — 1.25
Saturday April 17th — 1.00	Saturday April 17th — 1.25
Saturday April 24th — 1.00	Saturday April 24th — 1.25
Total <u>\$4.10</u>	Total <u>\$5.00</u>

EMPLOYEES' STATEMENT OF FACTS: In the mechanical department of The Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier, the carrier employs monthly rated electrical workers and assigns them to a designated headquarters. These electrical workers work out of the assigned headquarters and perform work which requires them to be away from their headquarters and home for long periods of time. Such working conditions exists for shop extension department electrical workers, on the Western Lines, headquarters Albuquerque, New Mexico.

Mechanical department electricians, Glen P. Curto and Clark Stanley, hereinafter referred to as the claimants, are regularly employed in the Western Lines, shop extension electrical department of the carrier, as monthly rated electricians with headquarters, Albuquerque, New Mexico, with

"November 13 and 14, 1954—O. E. Hemme, Lead Electrician, R. J. Lungstrum, electrician, and H. E. Niemeyer, electrical apprentice—after working regular assigned hours at San Angelo, Texas, made week-end trip to home station, Amarillo, Texas, and return.

November 20 and 21, 1954—C. T. Thomas, electrician. After working regular assigned hours at Hutchinson, Kansas, made week-end trip to home station, La Junta, Colorado, and return.

January 22 and 23, 1955—R. A. Lewis, electrician. After working regular assigned hours at Carlsbad, New Mexico, made week-end trip to home station, Amarillo, Texas, and return.

February 26 and 27, 1955—J. Robinson, electrician. After working regular assigned hours at Prescott, Arizona, made week-end trip to home station, Phoenix, Arizona, and return.

March 26 and 27, 1955—T. E. Marchand, Lead Electrician. After working regular assigned hours at El Paso, Texas, made week-end trip to home station, Albuquerque, New Mexico, and return."

In contrast to the example immediately above, on the same weekend, March 26 and 27, 1955, Electricians Curto and Stanley, claimants in this dispute, after working regular assigned hours at El Paso, Texas, made week-end trip to home station, Albuquerque, New Mexico and return, and each claimed noon meal en route to Albuquerque in amounts of \$1.00 and \$1.25, respectively. Those amounts were denied them and **the organization made no protest of that action.**

The carrier petitions the board to decline this claim on the basis that its handling of the matter in dispute is entirely in accordance with Rule 14 of the general agreement and that to grant the allowances claimed would not only be contrary to the intent of the rule but in conflict with its **accepted application** during the more than 30 years the provisions of Rule 14 (f) have been effective.

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.

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

This claim is in behalf of Electricians Glen P. Curto and Clark Stanley. It involves the cost of their noon meals while enroute from El Paso, Texas, to their home station, Albuquerque, New Mexico, on certain Saturdays in April 1955, as fully set out in the claim.

Claimants are monthly rated electrical workers in the Mechanical Department of carrier assigned to road work under Rule 14 of the parties' effective agreement. They were working out of headquarters at Albuquerque, New Mexico, with a work week of Monday through Friday, with Saturday available for emergency work, if needed, and Sunday their day for rest. During April of 1955 they were assigned to road work at El Paso. The work being done was not of such a character that they were required to work on Saturdays so, with consent of the carrier, they were permitted to spend the weekends at their home station of Albuquerque. Consequently they left El Paso on Saturday mornings at 7:15 on carrier's train No. 14, arriving Albuquerque at 1:00 P.M., eating their noonday meal enroute at a time

when that is normally done. This claim was filed to obtain a refund of the cost of these noonday meals.

Rule 14 of the parties' effective agreement, insofar as here material, provides:

"(d) * * * when the service requirements make the purchase of meals * * * necessary while away from home point, employees will be paid necessary expenses."

"(f) When in the judgment of the Management condition will permit, electrical workers * * * regularly assigned to road work and paid on a monthly basis in accordance with this rule, will be permitted to make weekend trips to their home station * * *. Free transportation will be provided, but no personal expenses will be paid at the home station."

Are such employees, under the provisions of this rule, eligible for refund of expenses incurred for meals while enroute? We think so provided they are eaten at a time when it is normal to do so, that is, during the normal meal period. The reason for answering this question in the affirmative is that such employees are "away from (their) home point" until they arrive there and the only exception thereto, under the rule herein set forth, is that "no personal expenses will be paid at the home station." The latter has no application here, as these expenses were not incurred at the "home station."

Carrier relies on the fact that the accepted application of this rule has, for more than thirty (30) years, been to the contrary. The answer to this contention is that when a rule is clear and unambiguous either of the parties can have it properly applied at any time. It is only when a rule is ambiguous that accepted practice thereunder by the parties is controlling.

In view of what we have said we find the claim to be meritorious and that it should be allowed.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June, 1956.