

**Award No. 3564**

**Docket No. 3180**

**2-MP-CM-'60**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYES'  
DEPARTMENT A. F. of L. - C. I. O. (Carmen)**

**MISSOURI PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That the current agreement, particularly Rule 9, and the Vacation Agreement, particularly Article 12(a), were violated when Carman A. S. Coburn was denied payment for travel time, meals and lodging at Ordway, Colorado, starting October 7th through 25th, 1957, inclusive.

2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Carman Coburn 11 hours at the straight time rate for travel time to Ordway, Colorado and return to home point, also for meals and lodging from October 7th through 25th, 1957, inclusive, in the amount of \$105.65. (See Employees' Exhibit "A" which is an itemized account of Mr. Coburn's expenses).

**EMPLOYEES' STATEMENT OF FACTS:** Carman H. E. Stevenson who is employed at Ordway, Colorado, a one-man point coming under the jurisdiction of Master Mechanic Daniels whose headquarters are at Osawatomie, Kansas, went on his annual vacation starting October 7 through 25, 1957, inclusive. This job was filled by Carman A. S. Coburn, hereinafter referred to as the claimant, whose home point is Hoisington, Kansas which is a distance of 289 miles east of Ordway, Colorado. The claimant was paid the carmen's regular rate of pay while at Ordway, of which there is no dispute. The dispute arises over the refusal of the Missouri Pacific Railroad Company, hereinafter referred to as the carrier, to pay travel time from Hoisington to Ordway and return and for meals and lodging while the claimant was at Ordway, Colorado.

After completion of this job, the claimant upon return to home point turned in 11 hours for travel time and filled out Form 1361 showing an expenditure of \$105.65, covering meals and lodging while at Ordway. Master Mechanic Mr. Daniels, declined to pay this claim and is, therefore, the basis of the case before your Honorable Board.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company with the result that he has declined to adjust the matter.

Rule 9 and Rule 23. (Although other rules may be involved in filling vacancies under other conditions, we mention only Rules 9 and 23 here since they are the only rules referred to in progressing the claim on the property.)

We must first select the rule which fits this claim. As we have pointed out above, claimant had been laid off and was unemployed, and, therefore, Rule 9 cannot apply. Rule 23 is the applicable rule, and, as we have also pointed out above, the applicable regular rule, i.e., Rule 23, does not provide for any additional compensation to claimant above and beyond his regular wages for work performed.

In conclusion, carrier states that Rule 23 obligated the carrier to give claimant preference to transfer to Ordway if he desired the work. Claimant wanted the work. The same rule, Rule 23, which gave claimant preference to the work made it clear that men accepting employment under the rule and thereby required to transfer from one point to another are to make such transfer "without expense to the company". It follows, therefore, that the claim is not supported by the agreement and, therefore, must be denied.

**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 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 were given due notice of hearing thereon.

We find no material distinction between the situation disclosed by this record and those considered in our awards Nos. 1376 and 1430 in each of which we held that Rule 9 and not Rule 23 was applicable. The observation in Award 1430 with respect to Rule 23 was unnecessary to the decision in that case and may therefore be regarded as obiter dictum. The claimant is entitled to reimbursement for travel time and actual necessary expenses for meals and lodging in filling the temporary assignment at Ordway, Colorado.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1960.