

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

Parties to Dispute: ((International Brotherhood of Electrical Workers
(Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That, in violation of the Agreement, the Burlington Northern Railroad Company has arbitrarily required its Electrical Engineering and Communications Department employees to expend their personal funds for necessary living, and other, expenses incurred while performing company service away from their headquarters location.

2. In further violation of the Agreement, the Burlington Northern Railroad Company did not timely reply to the grievance presented by the Local Chairman and subsequently, then refused to allow the grievance as presented as is required by the governing Rule.

3. In further violation of the Agreement, Burlington Northern's highest designated officer did not timely respond to the appeal presented by the General Chairman and again the Burlington Northern refused to settle the grievance as required by the governing Rule.

4. The accordingly, the Burlington Northern Railroad Company should be instructed to cease its practice of requiring its employees to utilize their personal funds in its service and to establish a policy and procedures whereby such employees are entitled to an expense draw (advance) as they prepare to leave their headquarters location to perform company service elsewhere on their assigned territory. All as set forth in the grievance presented by the Local Chairman and the appeal of the General Chairman.

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.

The instant Claim was filed by letter of August 10, 1985. It alleged a violation of Rule 6(k) in that employees were specifically to be "paid" and not reimbursed when assigned to away from headquartered work. That Rule reads as follows:

"Where meals and lodging are not furnished by the railroad, or when the service requirements make the purchase of meals and lodging necessary while away from headquarters, employees will be paid actual necessary expenses."

The Organization maintained that a violation occurred as employees used their own money and had to wait reimbursement by Carrier. The Carrier failed to timely respond and the Claim was subsequently argued to be allowed as per the Agreement.

The Carrier argues on property that what is attempted herein is a Rules change by Claim rather than negotiation. It notes ex parte that the Board lacks authority to provide relief where no specific Claimants are named, nor monetary loss requested.

This Board has carefully reviewed prior Awards and the entire record as handled on property. Rule 6(k) has no language which requires the Carrier to set up a fund for employees to draw from when assigned to work away from headquarters. The Rule does not require what the Organization requests.

The language requires Carrier to pay employees for their "actual necessary expenses." This Board has previously held that such language protects the employee from monetary loss and the Carrier from unreasonable and unwarranted expense Claims, and that such expenses have to be known and to have actually occurred before payment is required (Third Division Award 10923). This Board holds with the reasoning of that Award. Based upon the entire record and the precedent of other Awards on this same property, we must deny the Claim (Fourth Division Award 3939; Second Division Awards 10370, 10371).

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of January 1988.