

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
THE COLORADO AND SOUTHERN RAILWAY COMPANY**

DISPUTE.—

"Claim of B. & B. Foreman, Paul Huston, for \$22.95 expenses incurred for meals while at Des Moines, New Mexico, June 3rd to 30th, 1934, inclusive."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier and the employee involved in this dispute are respectively carrier and employee 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.

The following statement of facts is jointly certified by the parties and the Third Division so finds:

"Paul Huston holds seniority in the B. & B. Department of the Sou. Div. as a carpenter and B. & B. Foreman. Prior to June 3rd, 1934, he was working as a carpenter in Foreman Beeson's gang, which was located at Ludlow, Colo., 93 miles north of Des Moines, New Mex. On June 3rd, 1934, a house gang was put on to make repairs to the Station and the Section House at Des Moines. Paul Huston was placed in charge of this gang as Foreman. The employees in this gang were recruited from local territory around Des Moines and lived and boarded in their own homes or restaurants in Des Moines. No bulletin was posted asking for bids for Foremen or other positions in this gang.

"An outfit car was furnished Foreman Huston in which to sleep, this car was not equipped for cooking or boarding. Foreman Huston slept in this car, but ate all his meals in a restaurant in Des Moines. This claim is for the expense of his meals at restaurants in Des Moines and claim is made under Article 28 of the Maintenance of Way Employees' Schedule, which reads as follows:

"In emergency cases, employees taken off their assigned territory to work elsewhere will be furnished meals and lodging by the railroad if not accompanied by their outfit cars. This rule not to apply to employees customarily carrying midday lunches and not being held away from their assigned territory an unreasonable time beyond the evening meal hour."

There is in evidence an Agreement between the parties, bearing effective date of April 1st, 1925, and the Petitioner cites and entirely relies upon Article 28.

The Carrier represents Paul Huston was appointed Foreman in accordance with the provisions of the Agreement and that neither the appointment or work performed by Huston's gang were caused by, or due to an emergency.

The Third Division finds this was not an "emergency case" as contemplated by Rule 28.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this Tenth day of November, 1936.