

NATIONAL RAILROAD ADJUSTMENT BOARD  
Third Division

Arthur M. Millard, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**  
**THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY**  
**THE CHICAGO, ROCK ISLAND AND GULF RAILWAY COMPANY**  
(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

**STATEMENT OF CLAIM.—**

"Claim of John Frederickson, roadway machine operator, for expenses incurred during the months of April, May, and June, 1936, in the amount of \$85.50 and Frank Davis, roadway machine operator, for expenses incurred during the months of April and May, 1936, in the amount of \$102.25, in conformity with Rule 34 (c) on account of working away from their home station and not being provided with outfits."

**STATEMENT OF FACTS.**—The parties jointly certified to the following statement of facts:

"John Frederickson and Frank Davis were assigned as roadway machine operators, working as such at various points on the Illinois Division. They were not provided with outfit cars."

There is in evidence an agreement between the parties dated January 1, 1936, and the employees base their contention on the application of Rule 34 (c).

**POSITION OF EMPLOYEES.**—The employees submit that:

"An employee in the Maintenance of Way Department is always working either from his home station or from his outfit. When working away from his home station or from his outfit, he is, under provisions of Rule 34 (c), entitled to reimbursement for expenses incurred for meals and lodging. An employee can have only one home station. Schedule 34 (c) reads:

'Employees, except as provided by Sections (a) and (b), who are required by the direction of the management to leave their home station, will be allowed actual time for traveling or waiting during the regular working hours. All hours worked will be paid for in accordance with practice at home station. Travel or waiting time during the recognized overtime hours at home station will be paid for at the pro rata rate.

'If during the time on the road a man is relieved from duty and is permitted to go to bed for five or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and lodging are not provided by the railroad, actual necessary expenses will be allowed.

'Employees will not be allowed time while traveling in the exercise of seniority rights, or between their homes and designated assembling points, or for other personal reasons.'

"Roadway machine operators John Frederickson and Frank Davis were assigned to their respective positions by bulletin. They were working away from their home station. They were not provided with an outfit, and consequently, they are entitled to reimbursement for expenses incurred when working away from their home station. Their expenses for meals and lodging is approximately \$1.80 per day, certainly a nominal charge.

"We maintain that the claim of these two employes, for reimbursement for expenses incurred when working away from their home station, and not being provided with outfits, is just and reasonable and should be allowed."

**POSITION OF CARRIER.**—The carrier contends that:

"The operators of roadway machines in the maintenance of way department while working with and assigned to track gangs (extra or construction) are not paid nor are they entitled to, expenses. They are not away from their assigned territory. Such machine operators assigned to gangs are entitled to no more privileges than are the other employes of the gang such as extra gang laborers, assistant extra gang foremen, and extra gang foremen.

"The rate of pay of machine operators was established on the basis of value of their services and the rules do not provide that in addition to such salary they will receive room and board.

"John Frederickson and Frank Davis were assigned to operate adzing machines, power jack, bolt machine, and rail machines in steel gang assigned to the Illinois Division. This gang consisted, in addition to these machine operators, of extra gang laborers and foremen. In the month of April 1936, John Frederickson worked as a machine operator with the gang while stationed at Geneseo from the 20th to 22nd, inclusive, moved to Morris with the steel gang, worked there from April 27th to May 7th, inclusive, excluding Sunday, worked at Morris May 15, 16, and 18th to 21st, inclusive, also on the 28th and 29th, and continued working at Morris from June 1st to 6th, inclusive. From June 8th to 30th, inclusive, excluding Sundays, he worked at Minooka with the steel gang.

"Frank Davis worked the first nine days of April at Seneca with the steel gang, from the 10th to 17th at Depue, from the 18th to 23rd at Geneseo, and from the 24th of April to the 30th day of May, inclusive, at Morris. The services of both of these men were as machine operators and they were assigned to the steel gang.

"The Maintenance of Way organization in submitting this claim to the carrier, and we presume they will so state to your Board, indicated they rely on Article 34 (c) of the maintenance of way schedule in support of their contention that machine operators should be paid expenses. Rule 34 (c) is quoted in the joint statement of facts. The wording of this rule quite clearly indicates its application was intended to apply only in an emergency when employes are required to leave their home station or headquarters. Attention is directed to the language used in the second paragraph of the rule wherein it is stated—

"\* \* \* When such *irregular service* prevents the employe from making his regular daily hours at home station. \* \* \*

"[Italics ours.]

"That this rule is intended to cover only an emergency is further borne out by the interpretation to the rule appearing on page 16 of the agreement, which reads:

'Section (c) is intended to cover employes who may *in an emergency* be called out to perform work on or off their regular assigned territory and held away from their home or regular boarding or outfit cars. This would apply particularly to men called out to wash-outs, burnouts, wrecks, and emergency repair work on stock yards, coal chutes, water stations, bridges, etc.'

"[Italics ours.]

"Maintenance of way men who are assigned to gangs and who are not used off of their territory or away from their headquarters are not entitled to payment of expenses. The two men involved in this claim were not worked in an emergency as contemplated in Rule 34, and since that is the only article which the employes have cited and on which they rely for support of their position, their claim obviously cannot be sustained. It was not intended by agreement, is not now and has not been the practice to allow expenses to machine operators working under conditions as covered by the instant cases."

**OPINION OF BOARD.**—In this claim for expenses of certain employes incurred in one instance during the months of April, May, and June 1936, and in

another during April and May 1936, while working as roadway machine operators away from their home stations, the employees base their contention on Rule 34 (c) of the agreement between the parties, effective January 1, 1936.

The employees claim that in the application of paragraph (c) of Rule 34, employees who are required by the management to leave their home station will be allowed actual necessary expenses where meals and lodging are not provided by the railroad.

The carrier contends that inasmuch as roadway machine operators who are assigned to work of the class indicated and where they cannot be stationed at any one point for any length of time, have no home station, and work under the same conditions as other employees of the gang, including assistant foreman and foreman.

The carrier further contends that in the interpretation given in the agreement, Rule 34 (c) specifically provides that it is intended to cover employees who may, in an emergency, be called out to perform work on or off their regular assigned territory, and further states the character or classes of work which would constitute emergency work.

In the opinion of the Board, the fact of employees performing work in a seniority district, would not exempt them from the provisions of the rule allowing necessary expenses when traveling away from their home station in irregular service, even though such work was in the seniority district to which they were assigned.

Regarding the interpretation given to Rule 34 (c), it is the further opinion of the Board that in its proper application this interpretation is not intended to exclude all other conditions that might arise in connection with the work of the carrier, but would apply particularly, not exclusively, to the classes of work specified. Under these conditions the irregular service of the employees covered by this instant case entitle them to the provisions of Rule 34 (c) and the allowance of necessary expenses where meals and lodging are not provided by the railroad while performing work on their regularly assigned territory but held away from their home station.

**FINDINGS.**—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That under the circumstances of this claim the employees are entitled to an allowance for necessary expenses while engaged in work away from their home station by direction of the carrier.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: H. A. JOHNSON  
*Secretary*

Dated at Chicago, Illinois, this 30th day of August, 1937.