

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that Mr. Ed. Houdashelt be paid one hour at pro rata rate for meal period not afforded within the allowed time limit December 3, 1940, under the provisions of Rule 47 of Agreement effective September 1, 1926.

EMPLOYEES' STATEMENT OF FACTS: Mr. Houdashelt holds assigned position as Water Service Helper, headquarters Dunsmuir, California, assigned working hours 7:30 A. M. to 12 Noon—1:00 P. M. to 4:30 P. M.

December 3, 1940, Mr. Houdashelt reported for work at Dunsmuir at the regular starting time, 7:30 A. M. He worked at Dunsmuir only a short time when he was instructed to proceed to Gerber to perform work, departing on Train No. 15 at 9:40 A. M. and arriving Gerber 1:40 P. M., then working until 4:30 P. M.

Claim for 8 hours was made by Mr. Houdashelt to cover regular assigned work period and one (1) hour at pro rata rate to cover meal period (12 Noon to 1:00 P. M.) which was not afforded within the allowed or agreed time limit. Claim for the one (1) hour at pro rata rate to cover meal period was not allowed.

By letter dated January 2, 1941, (Employees' Exhibit "A") the Division Chairman presented to Carrier's Division Superintendent request that the claimant be paid one (1) hour pro rata rate under the provisions of Rule 47 for meal period not allowed December 3, 1940, within the allowed or agreed time limit.

By letter dated January 28, 1941, (Employees' Exhibit "B") Carrier's Division Superintendent advised Division Chairman that the claim was declined.

By letter dated February 25, 1941, (Employees' Exhibit "C") claim was presented by the General Chairman on appeal to Carrier's Assistant Manager of Personnel.

By letter dated March 20, 1941, (Employees' Exhibit "D") Carrier's Assistant Manager of Personnel declined the claim advising that Rule 47 was not applicable to the circumstances. Conference was held June 18, 1941, between the General Chairman and Carrier's Assistant Manager of Personnel and Carrier's declination of claim was re-affirmed.

OPINION OF BOARD: This claim is identical with the claim in Award No. 2446, Docket MW-2369, involving another employe on the same occasion and under exactly the same circumstances. It must, therefore, receive the same disposition, namely, a denial.

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 employe involved in this dispute are respectively carrier and employe 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 there has been no violation of the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of February, 1944.