

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that B&B Foreman Ingwald Jorgensen and thirteen carpenters shall be paid at pro rata rate for traveling in advance of and following their regular work period from their regular assembling point at Central Ferry Slip, Jersey City, to Weehawken, N. J., at which latter point they were instructed to work away from the headquarters from January 17 to 29, 1944, inclusive, and that they be reimbursed for expenses incurred for carfare in traveling between their regular assembling point at Central Ferry Slip, Jersey City, to Weehawken, New Jersey and back as follows:

	Hours	Amount of Carfare
Ingwald Jorgensen, Foreman	16½	\$2.20
Joseph Sabo	6	.80
Joseph Jurusik	15¾	2.10
Joseph Laski	15¾	2.10
Arthur Utter	16½	2.20
Fred Paulison	15	2.00
Herbert Decker	16½	2.20
Andrew Charko	16½	2.20
John Buthkiewiecz	6	.80
Walter Hanson	16½	2.20
James Devenero	11¾	1.50
James Cerchio	16½	2.20
Fred DeMarco	16½	2.20
Pasquale Gallo	9¾	1.30

JOINT STATEMENT OF FACTS: Foreman Ingvald Jorgensen was notified by New York Terminal Division Master Carpenter, Manley Smith, on Saturday, January 15, 1944 that he and his men were to go to Weehawken on Monday, January 17, 1944, to remove bridge over New Jersey Junction Railroad tracks and that he and his men would report on A.M. of January 17th at the Ferryhouse, Jersey City, N. J. which was the normal starting point from which they, together with their tools, would be transported by truck to Weehawken, which would be their headquarters until job was completed.

Foreman Jorgensen and (10) men reported at Jersey City Ferryhouse at their regular starting time and were transported to Weehawken by truck Monday morning, January 17, 1944; all tools required for the work were taken by same truck on that day. One other man reported direct to the job on January 18, 1944 and two more reported at Jersey City and taken by truck with their tools on January 24, 1944.

lished assembling point would be the location designated by the Carrier and where the employees' work clothes, tools and equipment that they were to use were stored.

In Award 2790 Division Three denied claim by Brotherhood of Maintenance of Way Employees of the Chicago, Burlington & Quincy Railroad Company, which claim had many of the features which are involved here except that Foreman Jorgensen and his gang are a bridge and building gang assigned in the New York-New Jersey Terminal Division area and they do not live in camp cars. Like Erie rule 8b(B), the C. B. & Q. rules provided for established assembling points and also provided that the time would start and end at such established assembling points while Erie rule provides that time will begin and end at points designated by the Management and in this case the established assembling point designated for Jorgensen's gag was Weehawken, N. J.

This claim should be denied by Division Three of the Adjustment Board for the following reasons:

1. After Monday, January 17, 1944 to and including Saturday, January 29, 1944, the regular established assembling point for Jorgensen's gang was at Weehawken, N. J. Any travel time or carfare was expended by the claimants to reach their established assembling point in just the same manner as any other employe travels to reach his place of employment. At Jersey City, N. J. the Erie Railroad Company operates a large volume of commuter suburban passenger service. Employees who live in the commuter area are furnished suburban passes so that they can travel free on these suburban commuter trains into Jersey City. From Jersey City it is necessary for many of the employes to use other forms of transportation in order to get to the point where they work. There is no obligation on the part of this Carrier to pay travel time or carfare or to in any way furnish transportation to these points of employment.

2. Employees do not deny that Foreman Jorgenson and his gang were fully informed on Saturday, January 15, 1944 concerning the work on which they would be engaged for the following two weeks beginning with January 17, 1944 nor do they deny that tools and all equipment were available for them to use at this established assembling point at Weehawken during the two weeks that they were engaged in tearing down an old bridge over the New Jersey Junction Railroad tracks at that point.

3. Employees admit practice at Jersey City Terminal by which the regular established assembling points are not set up for carpenter gangs at locations where the work is for three days or less and although this practice has been in effect for some years the General Chairman says that it should have been stopped long ago and would have been protested had the General Committee been aware of such practices. The Carrier holds that they have the unrestricted right by agreement to set up assembling points and that nothing in the agreement limits these assembling points to any particular locations in the areas such as has been alleged by the General Chairman.

4. The claimants were not subject to Rules 14 or 15 which are the emergency road service and assigned road work rules because these claimants were not required by the Carrier to travel and the only traveling that they did was to get from their homes to their established assembling point. Some reference has been made to the note under Rule 14 but there is no claim by the committee that these employes were sent away from their home territory to perform temporary service. All of the work involved was within the territory known as Jersey City Terminal territory and the citing of this note by the General Chairman does not support the claim or alter the situation in any way.

5. Division Three denied claim by this same Brotherhood under substantially similar circumstances in their Award No. 2790.

OPINION OF BOARD: Claimants were notified on January 15, 1944, that they were to go to Weehawken, New Jersey, on January 17, 1944, to

remove a bridge. They reported at the Ferryhouse, Jersey City, New Jersey, on January 17, 1944, at their regular starting time and were transported by truck from that point to Weehawken. They worked their regular hours, 7:30 A. M. to 5:00 P. M. while at Weehawken. They came direct to the job from their homes each morning and went direct to their homes at the close of the day's work. They kept their tools and clothing on the job. The claim is for time used in traveling from the Ferryhouse to Weehawken and return on each day and the carfare expended in making these trips.

The record shows that there are four Bridge and Building crews on the Terminal Division, including the one heretofore mentioned, all located at different points within the Division. Claimants' home station was the Ferryhouse, Jersey City, New Jersey. It is their contention that when they were directed to work at Weehawken, their time each day should have commenced at the Ferryhouse instead of Weehawken. The situation is controlled by the following rules of the current Agreement:

"Rule 8. (a) Where one shift is worked, or the first shift where two or three shifts are worked, the starting time shall be regularly established between the hours of 6:00 A. M. and 8:00 A. M., except where inconsistent with the requirements of the service. The starting time of employees shall not be changed without first giving notice to employees affected during the working hours of the last previous working day. Should such notice be not given, time worked in advance of or subsequent to and continuous with the regular work period shall be paid for at the rate of time and one-half on the actual minute basis.

(By mediation April 21, 1939.)

(b) Employees' time will begin and end at points designated by the management as follows:

(A) Toolhouses will be the home station for section gangs.

(B) Terminal shops or regular established assembling points will be the home station for all maintenance of way mechanics included in Classes 2, 3, 4, 5, and 7 of the scope.

(C) Boarding cars will be the home station for employees assigned to such cars."

Under the foregoing rules, Claimants' regular established assembly point was the Ferryhouse, Jersey City, New Jersey. Carrier contends that when they were notified on January 15, 1944, to go to Weehawken on January 17, 1944, and that the latter point was to be their headquarters until the job was completed, it constituted the establishment of an assembly point as a home station within the meaning of Rule 8 (b) (B).

The argument of the Carrier that it can change the home station at will does not appear to coincide with the wording of the rule. (The rule provides that the starting time of employees shall not be changed within the limits of the rule unless notice be given during the working hours of the last previous working day.) The rule does not provide that regular established assembling points can be so changed. The home station of a position is very important to an employee bidding on a job. Its location and the means of transportation to and from it are often the controlling inducement of his bid for the position. If the Carrier can change it at will, there is no reason for the rule. The language of the rule confirms this view. Class 2 employees, the class to which claimants belong, are to headquarter at terminal shops or regular established assembling points. The use of the word "regular" indicates the idea of a permanent rather than a shifting home station. The fact that the Carrier arbitrarily fixed a period of three days or less away from the home station as indicating temporary work and more than three days as permitting the establishment of a regular assembly point cannot change the meaning of this rule. While claimants can be properly directed to assist with the work at Weehawken, it does not follow that it can properly be established as a home

station in the manner here attempted. We think, under the cited rules, that claimant's time began at the Ferryhouse, Jersey City, New Jersey, and that the attempt of the Carrier to have it begin at Weehawken by assigning it as a home station in the manner in which it did constitutes a violation of the rule. An affirmative award is required.

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 the current Agreement was violated as alleged.

AWARD

Claim sustained as to all named Claimants except Ingwald Jorgensen.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of April, 1946.