

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY

(Joseph B. Fleming and Aaron Colnon, Trustees)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that under the application of Schedule Rule 34 (a) Edward T. Froeschle, welder foreman, and members of his crew, A. J. Girdner, A. Girdner, A. B. Areingdale, L. Plochocki, Henry Zogg, H. H. Miller, B. K. Johnson, Bryan Owisen, Emmet Garland, J. G. Irnsland, T. R. Roudabrise, Fred Massow, and R. L. Anderson, shall each be paid for 3 hours and 40 minutes at pro rata rate, at the regular hourly rate applicable, in addition to the 4 hours and 20 minutes for which they were paid, for traveling in outfit cars from 8:00 A.M. to 4:30 P.M. on Sunday, April 1, 1945.

EMPLOYEES' STATEMENT OF FACTS: On March 31, 1945, or perhaps prior thereto, Welder Foreman Edward T. Froeschle was instructed to move his gang from El Reno, Oklahoma, to Bridgeport, Texas, on April 1, 1945. In compliance with that instruction Foreman Froeschle billed his outfit cars on March 31, 1945, for movement by freight to Bridgeport on the following day, April 1, 1945.

The Froeschle outfit cars were spurred out or located in the city freight yards while stationed at El Reno. Sometime in the early morning of Sunday, April 1st, the outfit cars were picked up by switch engine and moved from the city freight yards to the El Reno train yards to be attached to regular freight train No. 95, which was scheduled to leave El Reno at 7:00 A.M. Although freight train No. 95 was scheduled to leave El Reno at 7:00 A.M., it did not leave until 11:40 A.M., April 1st.

Agreement effective May 1, 1938, between the carrier and the Brotherhood is by reference made a part of this Statement of Facts.

POSITION OF EMPLOYEES: Schedule Rule 34 (a) of agreement in effect between the Carrier and the Brotherhood of Maintenance of Way Employees, governing payment for traveling in camp cars, reads:

"TRAVEL TIME IN CAMP CARS

Employees required by the management to travel on or off their assigned territory in boarding cars will be allowed straight time traveling during regular hours, and for Sundays and holidays during hours established for work periods on other days."

As will be noted, Rule 34 (a) provides that employees required by the management to travel in boarding cars will be allowed straight time travel-

P.M. same date. This gang's regular work hours were 8:00 A.M. to 4:30 P.M. The gang was paid travel time at pro rata rate from 11:40 A.M. to 4:30 P.M., as per Rule 34 (a) of the agreement of May 1, 1938, reading:

"TRAVEL TIME IN CAMP CARS.

Employees required by the management to travel on or off their assigned territory in boarding cars will be allowed straight time traveling during regular working hours, and for Sundays and holidays during hours established for work periods on other days."

POSITION OF CARRIER: The employees evidently are claiming three hours and forty minutes time at pro rata rate from 8:00 A.M. to 11:40 A.M., during which time their outfit cars were still at El Reno, Oklahoma, terminal awaiting arrival of train No. 95, which picked them up at 11:40 A.M. that day. No travel time was involved between 8:00 A.M. and 11:40 A.M. and the gang therefore was properly paid from 11:40 A.M. to 4:00 P.M. for traveling on Sunday "during hours established for work periods on other days."

It may be the employees are seeking pay now for so-called "waiting" time, but there is no provision in the above quoted rule or any other rule providing for payment for waiting time under circumstances in this case. Neither has any waiting time ever been paid in cases such as this. The rule is specific:

"Employees . . . will be allowed straight time traveling during regular working hours, and for Sundays and holidays during hours established for work periods on other days."

The gang on Sunday, April 1, 1945, left El Reno Terminal during hours established for work periods on other (week) days, traveled in train, 11:40 A.M. to 4:30 P.M., and, in accordance with the rule was paid in accordance therewith.

OPINION OF BOARD: Claimants are members of a welding gang outfit which traveled in boarding cars. These cars were to be picked up on April 1, 1945, at El Reno by train No. 95, which was scheduled to leave El Reno at 7:00 A.M. About 3:30 A.M. of April 1 the cars were switched from the city yard, El Reno, to the train yard, a distance of about three miles. This movement was preparatory to leaving on train No. 95 at 7:00 A.M. However, train No. 95 did not leave El Reno until 11:40 A.M., and employees were paid traveling time only for the period commencing at 11:40 A.M. Claimants contend that under Rule 34 (a) they should be paid traveling time commencing at 8:00 A.M. on the day of departure rather than commencing at 11:40 A.M.

Rule 34 (a) provides:

"Travel Time in Camp Cars. Employees required by the management to travel on or off their assigned territory in boarding cars will be allowed straight time traveling during regular working hours, and for Sundays and holidays during hours established for work periods on other days."

Claimants work period commenced at 8:00 A.M. and hence the claim for traveling time from that hour.

We are of the view that when these cars were moved from the city yard to the train yard for the purpose of leaving with train 95 at 7:00 A.M. that the cars started traveling within the meaning of the rule. This movement was a part of the process of getting the cars from El Reno to their future destination, and was made only for that purpose. The rule announced in Awards 2048 and 2310 is applicable here, and claimants should be compensated for the period commencing at 8:00 A.M. rather than 11:40 A.M.

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

The claimants should be compensated for the period commencing at 8:00 A.M. rather than 11:40 A.M. April 1, 1945.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 17th day of July, 1947.