

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood:

(1) That the Carrier improperly paid B&B employes J. H. Renfro and J. G. Sheppard by not allowing payment for time spent waiting at Centerville, Iowa between the hours 6:00 a.m. to 6:15 p.m. on November 2, 1947;

(2) That the claimants be paid twelve and one-quarter (12¼) hours at pro rata rate at their regular basic rates of pay in accordance with the provisions of Rule 34(c), for time spent waiting between the hours of 6:00 a.m. to 6:15 p.m. at Centerville, Iowa on November 2, 1947.

EMPLOYEES' STATEMENT OF FACTS: At 10:00 p.m. November 1, 1947, B&B Carpenters J. H. Renfro and Joseph Sheppard were instructed to go from Trenton, Missouri to Centerville, Iowa to perform emergency work.

These two employes gathered the necessary tools and supplies and proceeded to Centerville and completed the emergency work at 6:00 a.m. November 2, 1947, which was Sunday, a day not regularly assigned as a work day.

They then checked to ascertain if some train would stop at Centerville, thus enabling them to return to their headquarters and were informed that the next train would stop at 6:15 p.m.

Renfro and Sheppard waited until 6:15 p.m., loaded their tools and supplies and returned to their headquarters, arriving at 8:00 p.m., November 2, 1947.

They then submitted time slips claiming twenty-two (22) hours at time and one-half rate. The Management corrected the time slips and actually paid them for fourteen (14) hours at the straight time rate and eight (8) hours at the time and one-half rate.

On February 17, 1948, the Carrier informed Renfro and Sheppard that they had been improperly paid, that they should not have been paid from 6:00 a.m. to 6:15 p.m. on November 2, 1947, as they were not working and could have secured sleeping quarters at Centerville if they so desired, therefore, deductions would be made from their next pay drafts on this basis.

The deductions were made by the Carrier and protest to the action was made by the General Chairman of the Brotherhood. In each instance the Carrier held that its actions were justified.

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 pro-rata rate.

"INTERPRETATION:

"Section (c) is intended to cover employees 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 out-fit cars. This would apply particularly to men called out to washouts, burnouts, wrecks and emergency repair work on stock yards, coal chutes, water stations, bridges, etc."

It is our position that inasmuch as these employees were informed by the Chief Dispatcher in response to their inquiry that the first train that would stop at Centerville on which they could ride to return to Trenton would be No. 39 at 6:15 p.m., November 2, 1947, and inasmuch as they finished their work at 6:00 a.m. on November 2, 1947, they were relieved and could have obtained sleeping quarters at Centerville.

We therefore respectfully petition this Board to deny this claim.

OPINION OF BOARD: Rule 34 (c) provides that employees, "required by the direction of the management to leave their home station, will be allowed actual time for traveling or waiting" and "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."

The Carrier contends that when the claimants had completed the work they were sent to do, they were automatically relieved from duty and in the exercise of good judgment should have gone to bed. Review of the language used in the rule shows such position to be fallacious. The words "relieved" and "permitted" indicate that instructions by the Carrier are required.

We are not impressed by the Carriers argument that so to hold would require the presence of a supervisor on every job, because instructions as to actions to be permitted can be given in advance. In the absence of any instructions to these men the claim must be sustained.

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 Carrier violated the Agreement.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois this 18th day of October, 1949.