

Award No. 5284

Docket No. SG-5088

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Hubert Wyckoff, Referee.

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Pennsylvania System Committee, Brotherhood Railroad Signalmen of America, that Telegraph and Signal Maintainer H. B. Shiels, with headquarters at Casey, Illinois, and Telegraph and Signal Maintainer H. C. Thomas, with headquarters at West Terre Haute, Indiana, be paid one hour's pay, at time and one-half rate, for each day starting from June 1, 1943, the effective date of the present agreement, until such time as their headquarters are made to conform with Article 8, Section 10, of the agreement.

EMPLOYEES' STATEMENT OF FACTS: Claimant H. B. Shiels has a regular position as Telegraph and Signal Maintainer with headquarters at Casey, Illinois.

Claimant H. C. Thomas has a regular position as Telegraph and Signal Maintainer with headquarters at West Terre Haute, Indiana.

The facilities provided as headquarters for the two claimants do not meet the requirements of Article 8, Section 10, of the agreement between the Carrier and the Telegraph and Signal Department employees.

The claimants have had to use their own private automobiles to carry tools and clothing required on the job because of the absence of lockers, washing facilities, and a suitable and safe place to store tools.

A claim was made for one hour's pay per day, at time and one-half rate, for the claimants from June 1, 1943, the effective date of the agreement, until such times as their headquarters are made to conform with Article 8, Section 10, of the agreement.

There is an agreement in effect between the parties involved in this dispute bearing effective date of June 1, 1943. We understand there is a copy of this agreement on file with the Board, and request is made that it be made a part of the record in this dispute.

This claim has been handled in the usual manner on the property without reaching a satisfactory settlement.

POSITION OF EMPLOYES: The Brotherhood contends that the Carrier has not complied with the provisions of the agreement in not providing a headquarters for the claimants, as provided in Article 8, Section 10.

It is respectfully submitted that the National Railroad Adjustment Board Third Division, is required by the Railway Labor Act to give effect to the said Agreement, which constitutes the applicable Agreements between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the agreement between the parties hereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has shown that Article 8, Section 10 does not contemplate nor provide for payment of compensation such as is claimed in this case. The Carrier has shown that no other rule in the applicable Agreement supports the Claimants contention that they are entitled to the additional compensation of an hour's pay at time and one-half because certain requirements of Article 8, Section 10 temporarily were not complied with.

Therefore, the Carrier respectfully submits that your Honorable Board should dismiss the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier admittedly has not provided the headquarters for employees required by Article 8, Section 10. There is an intimation by the Carrier that it was impossible to comply with the Rule due to wartime conditions, but we are unable to give this thought much weight, for the promise was first made, not before Pearl Harbor, but on June 1, 1943. The claim was first made on the property February 21, 1947. The headquarters facilities were made to conform to the Agreement to the satisfaction of the Employees on November 26, 1948 at Casey, Illinois, and on May 1, 1949 at West Terre Haute, Indiana.

The claims specified failure to provide washing facilities, lockers and a suitable and safe place to store tools, as a consequence of which it was necessary for Claimants to carry the tools and clothing required on the job in their private automobiles to and from their homes, thus causing inconvenience and expense as well as requiring the performance of service after assigned working hours.

In view of Awards 5186 and 5219 involving this same Agreement on the same property, the claim must be sustained (see also Awards 1676 and 2855). In view of the nature of the claims and the condition of the record, the case should be referred to the parties on the property for the purpose of determining: (a) time spent carrying tools and clothing required on the job to and from wherever they were kept, at the rate of time and one-half pursuant to Article 2, Section 8; and (b) expense of actual use of automobile for that purpose, at the rate then paid by the Carrier for such use; but (c) nothing for laundry, wear and tear on automobile or inconvenience. The claims should be limited to the period commencing ninety days prior to the date the employee received his pay check next succeeding February 21, 1947 (Article 2, Section 21 (a); Award 4057), and ending November 26, 1948 at Casey and May 1, 1949 at West Terre Haute.

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 Agreement was violated.

AWARD

Claims sustained in accordance with the foregoing Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 20th day of March, 1951.