Award No. 5886

Docket No. MW-5809

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John W. Yeager, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

THE BELT RAILWAY COMPANY OF CHICAGO

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

(1) That the Carrier violated the effective agreement when they required Bridge and Building employes W. H. Lyman, S. E. Czarnecki and F. Wessel, John Bliss and H. Hickox to change their assigned assembling point during certain days in January and February, 1950 and on subsequent days thereto, and in so doing required them to travel one hour per day outside of their regular assignment, without compensation;

(2) That the above listed employes be paid at their respective overtime rate of pay for one hour on each day that they were required to assemble at a point other than their assigned headquarters at Clearing Yards.

EMPLOYES' STATEMENT OF FACTS: During the period between January 11, 1950 and February 17, 1950, Bridge and Building employes W. H. Lyman, S. E. Czarnecki, F. Wessell, John Bliss and H. Hickox, were required by the Carrier to change their assembling point from the shop at Clearing Yards to a warehouse situated near 103rd Street at Calumet River, which is approximately fifteen miles from their headquarters at Clearing Yards.

The above listed employes have been required to change their assembling point at various other times subsequent to February 17, 1950, dependent upon the specific location at which work is to be performed.

The aforementioned Bridge and Building employes are required to furnish their own transportation to and from their assigned headquarters and are not compensated either for their traveling expense or for the traveling time consumed.

One-half hour preceding and continuous with the regular work period, and one-half hour following and continuous with the regular work period is consumed in traveling to and from headquarters.

Claim was filed requesting that each of the above named employes be paid at their respective overtime rate of pay for one hour on each day that

They have not cited any rule in the agreement that would support their demand for the penalty payments requested.

It is our position finally that:

Rule 30—Filling positions by bulletin; Rule 8—Starting Point, on which the employes rely to support their claims, or any other rule of the Agreement was not violated by the Carrier.

There is no travel time rule in the agreement of April 15, 1940, or in any revision thereof.

There is no rule in the agreement of April 15, 1940, or in any revision thereof providing for payment for traveling between the employes' residence and location of work as is the case here.

The overtime rules do not apply as no work was performed in excess of their regular assignment.

Claim (1) that the agreement was violated and (2) that the employes mentioned should be compensated, are without justification or merit, therefore, should be denied.

The only claims of record for monetary payments are those listed by the Carrier on pages 1 and 2 of this submission and claims, if any, "on subsequent dates thereto" have not been specifically cited; nor have the facts and circumstances under which they are now made explained and made a part of the particular question here in dispute, therefore, they should not be considered or included in the Award.

All data in support of the Carrier's position has been presented to the duly authorized representatives of the employes and made a part of the particular question in dispute.

OPINION OF BOARD: This is a claim by the Organization on behalf of five named Bridge and Building employes. The claim is that these employes had assigned headquarters at Clearing Yards which was also their assembling point, and that for a period of time in January and February, 1950, the Carrier in violation of the Agreement changed their assembling point to 103rd and Calumet River. On account of this alleged violation the Organization on behalf of the Employes claims one hour each day at the overtime rate on which they were required to assemble at the new or changed assembling point.

The Carrier contends that it at all times had the right under Rule 8 of the controlling agreement to designate the assembling point of these employes and that it was not subject to penalty for so doing. Rule 8 with its title is as follows:

> "Rule 8. Starting Point. Employes' time will start and end at an assembling point designated by the employer."

This rule is clear and definite and on its face extends to the Carrier the unqualified right to at any time designate the assembling point of the employes. In equally clear and definite terms it declares that at the designated point the time of the employes shall start and end. There is no ambiguity in the rule.

If the clear terms of the rule are not to be allowed to control a limitation thereon must be found elsewhere in the Agreement.

It is to be implied by other provisions of the Agreement, particularly Rule 30, that Employes shall have a headquarters, but nothing is found the effect of which is to say that the headquarters and the assembling point for

work must be the same. To say here that they must be the same would be to add to and change the terms of the Agreement. No citation is necessary to support the statement that this is not a proper function of the Division.

In Award 4527 a claim somewhat similar to this one was before the Division. There by the Statement of Facts the Emplyes contended under a rule similar to the one here (Rule 34 of that agreement) that the Carrier could not without penalty designate an assembling point other than the one where the members of a "crew normally are required to report for work." The claim was denied.

No limitation has been found in the Agreement which would justify an interpretation of Rule 8 other and different from the meaning therein expressed.

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 Employes involved in this dispute are respectively Carrier and Employes 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 claim has not been sustained.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 24th day of July, 1952.