

Award No. 6197

Docket No. SG-6096

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

BOSTON AND MAINE RAILROAD

STATEMENT OF CLAIM: Claim of the System Committee, Brotherhood of Railroad Signalmen of America on the Boston and Maine Railroad, that Messrs. G. W. Nickerson, J. J. Martin, S. W. Brown, M. E. Hinkell, R. A. Russett, and D. R. Russett be allowed eight (8) hours travel time each at the half-time rate (the then current rate) between the hours of 10:00 P. M. January 3 and 6:00 A. M. January 4, 1949, while traveling in boarding cars under Carrier's orders between East Deerfield, Massachusetts, and Mechanicsville, N. Y.

EMPLOYES' STATEMENT OF FACTS: The determination of the claim as presented rests upon the proper application of Section 15, Article II, of the current agreement which reads:

"Employees traveling in boarding cars by direction of the Management will be paid straight time for traveling and waiting during regular working hours and for Sundays and holidays during hours established for work periods on other days. Employees traveling in boarding cars after working period hours half-time will be allowed between the hours of 10:00 P. M. and 6:00 A. M."

The claimants are members of a signal crew housed in boarding cars and were traveling from East Deerfield, Massachusetts, to Mechanicsville, New York, on the Carrier's orders.

The boarding cars and occupants thereof departed from East Deerfield at 12:15 P. M. January 3, and while en route to their destination the boarding cars were placed on a siding at North Pownal, Vermont, at 3:30 P. M. The boarding cars, together with the crew, were detained on the siding until 3:00 A. M., January 4, at which time the trip was resumed and the boarding cars together with the crew arrived at their destination in Mechanicsville, New York, at 7:20 A. M. on the same date.

The claimants were compensated for three (3) hours each at the half-time rate from 3:00 A. M. to 6:00 A. M. and the claim as presented to this Board comprehends the difference between eight (8) hours claimed and the three (3) hours paid for, or a net of five (5) hours at the half-time rate for each of the claimants to cover traveling time between 10:00 P. M., January 3, and 3:00 A. M., January 4, 1949, Section 15, Article II governing.

men who are at their home point be paid when not traveling outside of their bulletined hours? See Article II, Section 12.

Compare also Section 13 of Article II, which provides that hourly rated employes performing service requiring them to leave and return to home station daily will be paid straight time for all time traveling **or waiting**.

In every instance, except in that part of Section 15 dealing with boarding car crews traveling outside of bulletin hours, the parties were careful to provide for compensation for traveling **and waiting**. In the case of boarding car crews traveling outside of bulletin hours, the parties were equally careful to leave out any mention of waiting. The reasons are obvious. Boarding car crews live in cars on sidings; the cars are the home station of the crew (Article II, Section 12); and boarding cars on a siding between stations are exactly the same as boarding cars on a siding at a station. There are many good reasons for paying continuous time to a man who is sent away from his home station; there is no good reason for paying waiting time to a man who is not sent away from his home station. These factors were considered and recognized by the parties when Article II, Section 15 was negotiated.

If the Board should allow this claim, the Board would have to add to the last sentence of Section 15 the words "and waiting", words which were expressly left out of that sentence by the parties who negotiated the rule. In Awards No. 2326, this Division, with Referee H. Nathan Swaim, said:

"This Board can only interpret and apply agreements. It cannot change them at the request of either party."

The Board, therefore, cannot write into the second sentence of Section 15 the words "and waiting" as requested by the Claimants and the claim should be denied.

All data and arguments herein contained have been brought to the attention of the Employes in conference and/or correspondence.

(Exhibit not reproduced).

OPINION OF BOARD: The claim is that certain named claimants, members of a boarding car crew, be allowed eight (8) hours travel time each at the half-time rate between hours of 10:00 P.M. January 3, 1949, and 6:00 A.M. January 4, 1949, while travelling in boarding cars between East Deerfield, Massachusetts, and Mechanicsville, New York.

On January 3, 1949, 12:15 P.M., the claimants left East Deerfield, Massachusetts, on their boarding cars, for Mechanicsville, New York. The claimants in their cars were set off at a siding at North Pownal, Vermont, at 3:30 P.M. on January 3, 1949, where they remained until 3:00 A.M. January 4, 1949. At 3:00 A.M. on January 4, 1949, the claimants in their boarding cars travelled from North Pownal to Mechanicsville, arriving at 7:20 A.M. January 4, 1949.

The claimants were paid for 3 hours at half-time rate for the hours 3:00 A.M. to 6:00 A.M. January 4, 1949, the time spent in travel from North Pownal, Vermont, to their destination at 7:20 A.M.

The only question presented is whether or not these men should be paid travel time from 10:00 P.M. January 3, 1949, to 3:00 A.M. January 4, 1949, the time spent waiting on the siding at North Pownal, Vermont.

Article II, Section 12, states as follows:

"Boarding cars will be the home station as referred to in the rules of this Agreement for employes assigned to such cars."

This states in unequivocal language that the boarding cars are the home stations of these claimants.

Article II, Section 15, reads as follows:

"Employees traveling in boarding cars by direction of the Management will be paid straight time for traveling and waiting during regular working hours and for Sundays and holidays during hours established for work periods on other days. Employees traveling in boarding cars after working period hours half time will be allowed between the hours of 10 P. M. and 6 A. M."

This rule states that the claimants would be paid straight time for **travelling** and **waiting** during regular working hours and for Sundays and holidays and during hours established for work periods on other days. However, the rule states that the claimants will be paid for **travelling** in boarding cars after working period hours the half-time rate between the hours of 10:00 P. M. and 6:00 A. M.

The Carrier did pay these claimants at the half-time rate for the traveling between 3:00 A. M. and 6:00 A. M. January 4, 1949. The employees claim the half-time rate for the time waiting at North Pownal, Vermont, between 10:00 P. M. and 3:00 A. M. The applicable rule of the Agreement is silent as to waiting time after regular hours. As the Board cannot write rules for the parties, or read into them words that do not appear in the rules when the rules are clear as to their meaning; as the claimants did not spend the time in question in travel; and, since that is the condition upon which they are entitled to compensation, we deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived hearing thereon;

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 Carrier has not violated the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 30th day of April, 1953.