

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Hubert Wyckoff, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Eastern Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Atchison, Topeka and Santa Fe Railway; that

1. The Carrier is in violation of the terms of the Agreement between the parties when it fails to pay the occupant of Relief Position No. 7320, home station, Caney, Kansas an automobile mileage allowance based on the highway mileage round trip, between Caney, Kansas and Independence, Kansas and between Caney, Kansas and Coffeyville, Kansas on the respective days he works at each Independence and Coffeyville, Kansas; and
2. The Carrier shall now pay such occupant the difference between the amount allowed him and the amount due, computed on the round trip mileage used between the points named in Paragraph 1.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing effective date of June 1, 1951, between the parties to this dispute is in evidence. There is in existence a relief assignment identified as relief position No. 7320 furnishing rest day relief service at three stations, namely, Caney, Coffeyville and Independence, Kansas. The occupant of this relief assignment has headquarters at Caney and is assigned to perform relief work at the three stations on the following schedule:

RELIEF POSITION No. 7320

Coffeyville—Telegrapher-Clerk, 7:00 A. M. to 4:00 P. M. Sunday and Monday.

Caney—Agent-Telegrapher, 8:00 A. M. to 5:00 P. M. Tuesday and Wednesday.

Independence—Telegrapher-Clerk, 11:00 P. M. to 7:00 A. M. Thursday.

The rest days of this relief position are Friday and Saturday.

There is a bus leaving Caney at 6:05 A. M. and arriving Coffeyville at 6:35 A. M. which would permit the relief employee to protect the 7:00 A. M.

pendence was not authorized under the term of Section 10-d-6; hence, the mileage rate referred to therein is not applicable in both directions as contended by the Employees, but is only applicable to those portions of the trips on which the use of the claimant's automobile was authorized by the Carrier under the terms of Section 10-d-6.

It will accordingly be apparent from the foregoing discussion and analysis of Sections 10-d-2, 3, 4 and 5 that the Employees' interpretation of Section 10-d-6 would, if sustained, serve to nullify the provisions of Sections 10-d-2, 3, 4 and 5 and result in an amendment or revision of the agreement rules, which the Third Division has repeatedly recognized it is prohibited from doing, by the terms of the amended Railway Labor Act.

In conclusion, the Carrier respectfully reasserts that the Employees' claim in the instant dispute is entirely without support under the Agreement rules and should be denied in its entirety.

All that is contained herein is either known or available to the Employees or their representatives.

OPINION OF THE BOARD: This claim presents the question of the extent to which Sections 10-d-1 to 10-d-12 inclusive afford compensation to a regular relief employe for the use of his private automobile. The Rules are quoted above in the submissions.

On the Coffeyville assignment (19 miles from home station) there was highway bus transportation that would have permitted Claimant to arrive at the away from home station within 2 hours in advance of his starting time; but there was neither rail nor highway bus transportation that would have permitted him to leave the away from home station within 2 hours after completion of his work. The available highway bus transportation would have put him at the away from home station 25 minutes ahead of his assignment and would have held him there 3 hours and 20 minutes after completion of his work. The Carrier compensated Claimant: for the going trip, the bus fare rate provided by Sections 10-d-3 and 10-d-5; and for the return trip, the standard mileage provided by Section 10-d-6. The claim is for the standard mileage round trip based on Section 10-d-6.

On the Independence assignment (28 miles from home station) there was rail transportation that would have permitted Claimant to leave the away from home station within 2 hours after completion of his work; but there was neither rail nor highway bus transportation that would have permitted him to arrive at the away from home station within 2 hours in advance of his starting time. The available highway bus transportation would have put him in Independence 3 hours and 14 minutes ahead of his assignment; and the rail transportation would have held him there 5 minutes after completion of his work. The Carrier compensated Claimant: for the going trip, the standard mileage provided by Section 10-d-6; and for the return trip, no compensation on the theory that free transportation by rail was available within the 2-hour time limit. The claim is for the standard mileage round trip based on Section 10-d-6.

First. Although the use of rail transportation is always free (Section 10-d-2), this is not true of highway bus transportation. The employe will be reimbursed for the use of highway bus only if rail is not available or will not meet the 2-hour time limits. Thus, if rail will meet either one of the 2-hour time limits, a round trip by highway bus will be paid by reimbursement of bus fare for one leg only (Sections 10-d-3 and 10-d-4 and Note under Section 10-d-7).

Section 10-d-5 simply authorizes coextensive reimbursement of highway bus fare rate, whether the employe uses the highway bus or his private automobile, in the situations covered by Sections 10-d-3 and 10-d-4. Thus, if rail will not meet either of the 2-hour time limits, reimbursement of high-

way bus fare rate round trip is authorized, whether highway bus or private automobile is used. But if highway bus meets both 2-hour time limits and rail also meets one, a round trip by automobile will be reimbursed by highway bus fare rate for one leg only under Sections 10-d-3, 10-d-4 and 10-d-5.

Second. Section 10-d-6 clearly authorizes compensation to the employee in the form of mileage for a round trip by private automobile, when neither rail nor highway bus transportation exists on both legs of the trip, or when neither rail nor highway bus transportation will meet the 2-hour time limits on both legs of the trip.

Section 10-d-6 also clearly authorizes compensation to the employee in the form of mileage for one leg of the trip, when neither rail nor bus transportation exists on that leg only, or when neither rail nor highway bus transportation will meet the 2-hour time limit on that leg only. This conclusion follows from the use of the disjunctive "or" between the references of the two legs of the trip.

It is the essential position of the Organization that compensation in the form of mileage for a round trip by private automobile is also authorized by Section 10-d-6 when rail or highway bus transportation will meet the 2-hour time limit on one leg of the trip, but not on the other.

Third. The text of the Rules furnishes no support to the Organization's position and much to refute it.

A familiar guide to interpretation requires that a contract should be construed to give effect to all of its provisions, if possible; and these Rules require that certain of them (Sections 10-d-3, 10-d-4 and 10-d-6) shall "apply separately" to legs of trips. Moreover, the charging portion of Section 10-d-6 expressly conditions the compensation for use of a private automobile upon authorization "under the terms of these Sections 10-d." It is thus apparent that, under these Rules, no compensation is payable for the use of a private automobile unless consistent effect is separately given to each of the Rules on a leg basis.

Section 10-c contains a general promise to make free transportation available. But Section 10-c does not specify how or when this shall be done; and Section 10-d-1 qualifies or defines this general promise by a reference to the following sections (10-d-2 to 10-d-12) as the specific measure and means by which free transportation is to be furnished.

Read as a whole, the plain import of these Sections is that, when available within or outside the 2-hour limits, rail transportation will be furnished free; that highway bus transportation will be furnished free but only when no rail transportation is available or when available rail transportation does not meet the 2-hour time limits; and that employees, at their option, may elect to use their own private automobiles for which they are to be compensated, not generally, but only upon the contingencies and in the various amounts specified in the Rules.

It is to be observed that, on both of the assignments involved in this claim, there was free rail or highway bus transportation available on both legs of the trip, although on one leg in each instance the 2-hour time limit was not met. These Rules, as written, put Claimant to an election between taking the free though less convenient transportation available or taking for the use of his private automobile the various amounts of compensation specified by the Rules for each leg of his trip.

Fourth. The Organization argues that such a conclusion is impractical and unreasonable.

We find no uncertainty or ambiguity in these Sections of the Agreement. They appear to be the product of close negotiation down to points of con-

siderable detail. To interject our notions of what is practical or reasonable would involve torturing plain language and interfering with the understandings of the parties as reduced to writing.

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 Agreement was not violated.

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, 1954.