

Award No. 9790
Docket No. CL-9500

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Joseph E. Fleming, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

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

1. That Carrier has violated, and continues to violate, the Clerks' current Agreement when it failed and refuses to allow Rest Day Relief Clerk R. A. Barraclough the monetary allowances for meals and lodging, as provided in the Agreement, when he is required to remain away from his headquarters, Brinkley, Arkansas, protecting two days of his regular assignment at North Little Rock, Arkansas.

2. That Mr. R. A. Barraclough, Rest Day Relief Clerk, Brinkley, Arkansas, be allowed a maximum of \$4.00 for meals and lodging for each Thursday and a maximum of \$2.00 for meals for each Friday, starting with December 1, 1955, and continuing for all subsequent dates that Mr. Barraclough and his successor, or successors, are required to remain away from the assigned headquarters, in the performance of their duties and obligations to the Carrier, until violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Mr. R. A. Barraclough is regularly assigned to Rest Day Relief Clerk position, headquarters, Brinkley, Arkansas, working as follows:

Brinkley, Arkansas	Assigned Hours	Meal Period
Tuesday—Yard Clerk	5:30 A. M.— 2:30 P. M.	10:00 A. M.—11:00 A. M.
Wednesday—Yard Clerk	5:30 A. M.— 2:30 P. M.	10:00 A. M.—11:00 A. M.
Saturday—General Clerk	2:30 P. M.—11:30 P. M.	6:30 P. M.— 7:30 P. M.

North Little Rock, Arkansas	Assigned Hours	Meal Period
Thursday—Yard Clerk	7:30 A. M.—4:30 P. M.	12:00 Noon—1:00 P. M.
Friday—Yard Clerk	7:30 A. M.—4:30 P. M.	12:00 Noon—1:00 P. M.

Sunday—Monday, Rest Days

The rule obviously was carefully written. It is clear and manifestly does not provide payment under conditions such as here claimed.

The relief assignment here involved has been in effect since March 1953. Expenses for meals has been allowed only on the day the person assigned is unable to return to headquarters. There have been several men assigned but only one man prior to the claimant rendered forms claiming expenses on the day he returned to headquarters, and no claim was progressed when that employee was advised that he was not entitled to expenses on that day. Claimant is endeavoring to secure an allowance which other clerks have not enjoyed, and which clearly is not provided by the rules.

Exhibits 6 and 7 show settlement reached relating to expenses incurred by Relief Trucker N. L. Birl during 1949 and 1950. The assignment in that case was three days at Mt. Pleasant (headquarters) and two days at Sulphur Springs, Texas, 38 miles from Mr. Pleasant. During the period involved in 1949 Birl was worked at Sulphur Springs on Tuesday and Wednesday. In 1950 he was assigned Saturday and Sunday at Sulphur Springs. He went to Sulphur Springs by automobile each week on the first morning of his assignment there and returned to Mt. Pleasant after completing work the afternoon of the second date. He claimed automobile allowance, plus certain waiting time and meals and lodging on one of the two days each week when he worked at Sulphur Springs. His list of expenses submitted showed actual expenses less than the maximum of \$4.00 a day, or 60 cents for supper, \$1.25 for lodging and 60 cents for breakfast, and settlement was reached on the basis of paying \$2.45 a trip for expenses, and deducting the overpayment which had been made for waiting time.

The Organization confirmed acceptance of the settlement (Exhibit 7). While they stated the amount of \$2.45 a day was accepted without prejudice, it will be noted there was no contention that any expenses should be allowed for meals on the second day worked at Sulphur Springs.

The Carrier respectfully submits that the facts in evidence show that the claim is not supported by the rules, and should be denied.

All data herein has been presented to representatives of the Employees.

(Exhibits not reproduced)

OPINION OF BOARD: Claimant's assignment was Relief Clerk with Brinkley, Arkansas, as his designated headquarters point. On Thursday and Friday he worked at North Little Rock, Arkansas, from 7:30 A. M. to 4:30 P. M. North Little Rock is seventy miles from Brinkley and Claimant normally drove in his car to North Little Rock on Thursday morning and returned to Brinkley Friday evening after the completion of his tour of duty.

Rule 36½-4 provides:

"When such employees are unable to return to their headquarters on any day they shall be entitled, in addition to the allowance under paragraphs 2 and 3 of this Rule, to reimbursement for actual necessary cost of lodging and two meals per day while away from headquarters, with a maximum of \$4.00 per day; i.e., the 24-hour period following the time when the employee's last shift began. . . ."

Inasmuch as he was unable to return to his headquarters on Thursday within the twenty-four hours specified in the Rule, he should be allowed reimbursement for actual necessary cost of lodging and two meals, with a maximum of \$4.00.

However, being able to return to his headquarters within a twenty-four hour period from the time his shift began on Friday he is not entitled to any additional expenses under this Rule.

The record is not clear on whether Claimant has been reimbursed under Rule 36½-4 for his services at North Little Rock on Thursday and if not he should be so reimbursed. He is not entitled to reimbursement for Friday.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Claim is to be disposed of according to Opinion.

AWARD

Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 30th day of January, 1961.