

Award No. 10802

Docket No. SG-10663

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Harold Kramer, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Illinois Central Railroad Company that:

(a) The Carrier violated the Signalmen's Agreement, particularly Sections 18, 19, 20, 27, and 85, when it refused Signalman L. P. Lawson his actual necessary expenses when held away from his regularly assigned home station and refused him car mileage for the use of his private owned automobile.

(b) The Carrier now compensate claimant Lawson at 8¢ per mile for the use of his private owned automobile for a total of 376 miles, and for meals while away from his home station in the amount of \$10.75, a total of \$40.83. (Carrier's File No. 135-312-69, cy 135-530, Case No. 37 Sig.)

EMPLOYES' STATEMENT OF FACTS: On the dates embraced in the instant dispute, claimant L. P. Lawson was regularly assigned as Signalman in this Carrier's St. Louis Division Signal Gang No. 308, with headquarters and home station at the camp cars assigned to Signal Gang No. 308. Claimant Lawson holds seniority and rights only on the St. Louis Division.

On Friday, February 15, 1957, Signal Gang No. 308 was located at Coulterville, Illinois, and on that date Supervisor of Signals L. H. Griffith contacted Signal Foreman C. Yates and directed him to ship the Signal Gang to Dukes or Fancy Farm, Kentucky, which is located on the Edgewood Cut-off, and which is a part of the St. Louis Division.

Dukes and Fancy Farm, Kentucky are located between Edgewood, Illinois, and Fulton, Kentucky, and no passenger train service is available on this portion of the St. Louis Division. In order to reach this portion of the St. Louis Division by passenger train it is necessary for the men located north of Cairo, Illinois, to travel South to Fulton, Kentucky, and then make arrangement to travel up the Edgewood Cut-off to Fancy Farm, Kentucky. The St. Louis Division ends at Cairo, Illinois; therefore, it is necessary that the employees travel over the Mississippi Division from Cairo, Illinois, to Fulton, Kentucky.

On Friday, February 15, 1957, Signal Foreman Yates advised Supervisor

While the Carrier does not operate passenger service on the Bluford District, Claimant Lawson could have used freight service or made other arrangements for transportation from the camp car outfit to the Carrier's main line which is only a few miles away. Here the Claimant could have used transportation in his possession on a number of trains to his home at Carbondale, Illinois—approximately 90 miles away. However, the Claimant did not use the transportation issued to him, but instead elected on his own volition to use his private automobile.

In Third Division Award 2786, the Board ruled on an almost identical case and held:

" . . . The record shows that the Claimant had been furnished with an annual pass which permitted him to ride on passenger trains of the Carrier; there was no passenger train on that portion of the line at the time the Claimant desired to go home and return . . . The rule provides that free transportation will be furnished consistent with the regulation . . .

"Rule 5 does not obligate the Carrier to provide passenger service or other transportation service for the purpose of transporting employees; it only provides that free transportation will be furnished consistent with the regulations. Claimant was given an annual pass. He could ride on passenger trains. There is nothing in the rule that requires the Carrier to bear the expense for transportation when Claimant elected to use other than this Carrier's trains."

In the instant case before the Board, this Claimant too could have ridden the Carrier's trains had he desired, as he holds Illinois Central Annual Pass No. 50562 which he could have used. There is nothing in the agreement that requires the Carrier to bear the expense for transportation because the Claimant voluntarily elected to use his private automobile to make weekend trips to his home. This claim is likewise without merit.

3. Conclusion.

The Carrier submits that the Organization's claim for meal expenses and mileage allowance is entirely without support, and requests that the claim in its entirety be denied.

All data contained herein have been discussed or made known to the Organization.

(Exhibits not reproduced.)

OPINION OF BOARD: The Claimant in this instant was regularly assigned to position of signalman with headquarters in Camp Car Gang No. 308 on the St. Louis Division.

Section 18 of the Agreement reads:

"Camp cars will be the home station as referred to in this agreement for employees assigned to such cars and who have no other assigned home station."

On February 19, 20, 21, 25, 26 and 27, 1957 Claimant Lawson left and returned to the camp car outfit in accordance with his assignment, which hours were 7:00 A.M. to 3:30 P.M. excluding 30 minutes for meal period.

Section 19 of the Agreement reads:

"Hourly rated employes performing service requiring them to leave and return to home station daily will be paid continuous time, exclusive of meal period, from time reporting for duty until released at home station. Straight time for all straight time work. Overtime for all overtime work. Straight time for all time traveling or waiting. Riding on or operating motor cars is considered work as referred to in these rules.

This rule is silent regarding compensation for Employes for noon meal expenses incurred under conditions herein involved.

Section 20 reads:

"Regularly assigned hourly rated road service employes sent from home station and who do not return to home station the same day will be allowed time for traveling or waiting in accordance with Section 22 of this Article. All hours worked will be paid for—straight time for straight time hours and at the overtime rates for overtime hours. Actual expenses will be allowed when away from home station.

It is the opinion of this Board that Rule 20 above cited is clearly not applicable in this dispute. The argument by the Claimant that by charging the Carrier for lunches during the dates under dispute amounting to \$10.75 he in fact saved money for the Carrier is not germane. The existing Agreement under the applicable rule cited by the Organization are silent regarding the right of the Claimant to be permitted to eat his noon day lunch in the camp car provided for that purpose and this Board has so ruled and with which we concur in Award No. 1253.

Also, it is the opinion of this Board that under Section 27 of the Agreement which reads in part as follows:

"When the majority of employes in a crew elect, and conditions permit, they may make week-end trips to their homes, except that such permission may be denied in cases of emergency or rush projects. Assigned time lost account making such trips will not be paid for; however, men may make up such lost time either before or after making such trips, outside regular hours of assignment, at regular rate. When such trips are made free transportation will be furnished."

that "free transportation" as contended by the Carrier means free rail transportation. We are supported in this position as having been the understanding by both parties in view of the fact that this has been the practice and interpretation of this rule since the existing Agreement became effective in October 1, 1936 as indicated in the submission of the Carrier and not disputed by the Organization.

Claimant has failed to prove that free rail transportation was not available to him. Claimant holds Illinois Central Annual Pass No. 50562. The Third Division has similarly ruled in Award 2786.

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

That the parties waived oral hearing;

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 Agreement was not violated.

AWARD

Claim (a) denied (b) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September, 1962.