

Award No. 12655

Docket No. MW-11264

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Don Hamilton, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it failed and refused to allow Welder C. W. Williams and Welder Helper D. E. Schmidt pay for all of the hours between 8:00 A.M. and 5:00 P.M. on March 1 and 2, 1958.

(2) Welder C. W. Williams and Welder D. E. Schmidt now be allowed pay for all time not allowed and paid by the Carrier for the hours between 8:00 A.M. and 5:00 P.M. on March 1 and 2, 1958.

EMPLOYES' STATEMENT OF FACTS: The claimants represent a welding crew that was assigned to work on Mondays through Fridays from 8:00 A.M. to 5:00 P.M., exclusive of one-hour meal period.

The claimants were notified that, upon the completion of their work at Crete, Nebraska, on February 26, 1958, they were to move to Curtis, Nebraska.

The claimants and their outfit cars left Crete, Nebraska on the Local at 3:30 P.M. on February 26, 1958 and arrived at Hastings, Nebraska at 9:15 P.M. on the same evening.

They remained at Hastings all night awaiting connections with a local train and then left Hastings at 8:00 A.M. on February 27, 1958 and arrived at Holdrege at 10:15 A.M. They remained at Holdrege overnight, intending to make connections the next day with a local train to Curtis. However, because of heavy snow, and because that local train was being also used as a snow plow train, the roadmaster and the train crew would not move the outfit cars with them. Local trains do not operate on Sundays. The claimants were, therefore, required to stay at Holdrege until Monday morning, March 3, at which time they made connections at 9:00 A.M. with a local train which was going to Curtis.

While handling the instant dispute on the property, Petitioner freely admitted that claimants were authoritatively informed on Thursday that their movement to Curtis had been cancelled; Petitioner also freely admitted that claimants were working at Holdrege on Thursday, Friday, Saturday and Sunday. In the light of these agreed upon facts, it cannot successfully be contended that claimants were "waiting between train connections en route". They cannot be waiting and working at the same time, neither can they be en route to another destination while working at Holdrege. Their destination as of 10:11 A. M., Thursday, February 27, was Holdrege—that is where their services were needed and that is where they worked for four consecutive days before being released.

The principle involved in Third Division Award 6065, although the facts are not the same, is peculiarly applicable in this case. In Award 6065 the Board stated:

"The claimants did not spend any 'actual time traveling' during the period. Since that is the condition upon which they are entitled to compensation, we find the claim to be without merit."

In the instant case, the condition upon which they would be entitled to compensation is "waiting between train connections en route." Since claimants were not waiting between train connections en route, but were actually at their destination and working for four days, the Board must find the claim to be without merit.

OPINION OF BOARD: The Claimants, Welder Williams and Welder Helper Schmidt, represent a welding crew assigned to work Monday through Friday from 8:00 A. M. to 5:00 P. M., exclusive of a one hour meal period, and with Saturday and Sunday as rest days.

Pursuant to instructions that, upon completion of their work at Crete, Nebraska, on February 26, 1958, they were to move to Curtis, Nebraska; claimants and their outfit cars, left Crete at 3:30 P. M. on February 26, 1958, arriving at Hastings, Nebraska at 9:15 that evening, where they remained all night. They left Hastings at 8:00 A. M. Thursday, February 27, 1958, and arrived at Holdrege at 10:15 A. M. that same morning.

As a general rule the train runs between Holdrege and Curtis each morning except Sunday. Claimants did not proceed to Curtis until Monday morning, March 3, 1958. During most of this intervening time period, Claimants were used to perform emergency snow removal service.

The question involves the time not actually worked on the rest days. Claimants maintain that during all of the time after their arrival at Holdrege and prior to their departure to Curtis, they were "waiting between train connections", and hence should be compensated at travel time, under Rule 46 of the applicable agreement.

Carrier maintains that Claimants trip to Curtis was cancelled on Thursday when they arrived at Holdrege, and that they were worked under emergency snow conditions. Carrier alleges that it compensated Claimants at the straight time rate of their assignment for 8 hours on Thursday and Friday and at the time and one-half rate for overtime work on Friday, Saturday and Sunday.

Claimants request is made for their regular working hours which they did not work on snow removal, on Saturday and Sunday.

To support Claimants' position it would have to be shown that they were waiting for train connections during the time they were in Holdrege, and therefore entitled to travel time.

The record is clear that the men were compensated for the actual time they worked. There is however, nothing in the record to indicate that such work continued past 2:00 P.M. Sunday, March 2, 1958.

It would appear that for Saturday, and prior to 2:00 P.M. Sunday, an award of travel time for waiting, would be mutually exclusive with the prior payment for working.

It is the opinion of this Board that the record indicates that Claimants' trip was cancelled and that said Claimants were assigned to emergency snow removal service from the time of their arrival at Holdrege until 2:00 P.M. Sunday. It further appears certain that such emergency assignment is proper under the existing circumstances.

Since it does not appear that such assignment extended after 2:00 P.M., Sunday, it is the further opinion of the Board that said Claimants were, from 2:00 P.M. until 5:00 P.M. waiting between train connections on their rest day, during the hours established for work periods on other days; and it is therefore, the order of the Board that their claim be sustained as to this time period, and that they be compensated for these three hours each, at straight time.

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

That the Agreement was violated.

AWARD

Claim sustained in accordance with the provisions of the Opinion of the Board expressed herein.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1964.