Award No. 13157
Docket No. SG-12656

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

> In behalf of the employes assigned to System Signal Gang No. 7 in charge of Foreman W. A. Greer for travel time under Rule 20 at their respective straight time rates of pay when their assigned camp cars were in transit from Oakdale siding south of the G. M. & O. crossing, Mobile, Alabama, to Theodore, Alabama, between the hours of 5:45 P. M., May 6, 1959, and 7:00 A. M., May 7, 1959. Time involved amounts to thirteen (13) hours and fifteen (15) minutes, less one (1) hour and forty-five (45) minutes, the amount of time already paid each of the claimants by the Carrier.
>
> Total time claimed amounts to eleven (11) hours and thirty (30) minutes for each employe.
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> [Carrier's File No. G-357-20, G-357, G-228]

EMPLOYES' STATEMENT OF FACTS: This claim involves the signal employes of System Signal Gang No. 7 in charge of Foreman W. A. Greer. The signal employes assigned to System Gang No. 7 are assigned to a camp car outfit in accordance with Rule 13 of the Agreement, and were assigned to work from 7:00 A. M. to 5:00 P. M. each day, for the purpose of making up time for week-end trips home.

On Wednesday, May 6, 1959, the camp car outfit of System Gang No. 7 was located in Choctaw Yard on the Oakdale siding south of the G. M. & O. crossing at Mobile, Alabama. On that day Foreman Greer billed the camp car outfit to be moved from its location in Mobile, Alabama, to Theodore, Alabama. At the close of work on May 6, 1959, the employes of the gang returned to their camp car outfit and loaded their tools and equipment in preparation for their move from Choctaw Yard at Mobile, Alabama, to Theodore, Alabama.

At approximately 5:30 P. M., May 6, 1959, the camp car outfit started to move to Theodore, Alabama, and was moved by a switch engine from Choctaw

In the circumstances, we see no basis for the claim and this confirms declination made of same during conference of August 5.

Yours truly,

/s/ W. S. Scholl
Director of Personnel"

The agreement involved became effective February 16, 1949, and has been revised to October 1, 1950. Copies of the agreement are on file with the Third Division.

POSITION OF CARRIER: As evidenced by the employes' Statement of claim, their position is based on the contention that claimants are entitled to "travel time" under Rule 20, account their camp cars allegedly being "in transit" from Oakdale siding south of the G. M. & O. crossing, Mobile, Alabama, to Theodore, Alabama, between the hours of 5:45 P. M., May 6, 1959, and 7:00 A. M., May 7, 1959.

Rule 20, upon which the employes base their claim, reads as follows:

"When camp cars are moved, employes assigned to and traveling in or accompanying such cars will be allowed pay at straight time rate for the hours of their regular assignment, including such hours on a rest day or holiday. Employes moving as above, outside of regular hours, will be allowed pay at straight time rate while the cars are in transit."

The employes' position is based on the contention that the camp cars in question were "in transit" from the time they were switched from the north end of Choctaw Yard, about 5:45 P. M., May 6, to Sibert Yard, until the cars arrived at Theodore. Carrier's position is based on the contention that the "in transit" move contemplated by Rule 20 is from the time the camp cars departed from Mobile Terminal at 6:45 A. M., May 7, until the cars arrived at Theodore, Alabama, 11:00 A. M., same date — that the movement made with the camp cars within the Mobile terminal limits prior to their departure in Train No. 43 constitutes "terminal switching" and not an "in transit" move as contemplated by Rule 20.

Carrier submits an "in transit" movement contemplated by Rule 20, begins at the time the camp cars depart from one terminal, station or headquarters point en route to another. The headquarters point was Mobile when changed to Theodore.

In the circumstances, there is no basis for the employes' claim for the payment of travel time under Rule 20 beginning from the time the camp cars were switched from track No. 3 in Choctaw Yard to Sibert Yard, all within the Mobile terminal limits.

For the above reasons the employes' claim should be denied.

OPINION OF BOARD: At approximately 2:00 P. M. on May 6, 1959, the camp cars in question were switched by switch engine from a location on track number 3 to Choctaw Yard, a distance of approximately 2150 feet to a location on the north end of that yard. At about 5:45 P. M., the cars were switched by switch engine from the north end of Choctaw Yard to Sibert Yard, a distance of approximately 4 miles, the cars having been set

aside in Sibert Yard about 6:45 P.M. On the morning of May 7th, the cars were moved from their location in Sibert Yard to Theodore, Alabama, a distance of about 15 miles, departing at 6:45 A.M. and arriving at Theodore 11:00 A.M. The members of the System Gang No. 7 (claimants) were assigned to work 7:00 A.M. to 5:00 P.M. for week-end trip home purposes, but they worked until 5:45 P.M. on May 6 and 7. A claim was filed based on the supposition that they were entitled to "travel time" from the time the cars were moved by switch engine about 5:45 P.M. May 6, from the north end of Choctaw Yard to Sibert Yard, until 7:00 A.M., May 7, at which time their pay started on their regular assignment. The amount of the claim is for 13 hours, 15 minutes, less 1 hour, 15 minutes for which payment was made. Petitioner, in view of the factual situation as presented, contends that Carrier violated Rule 20, which reads as follows:

"RULE 20. TRAVELING IN CAMP CARS

When Camp Cars are moved, employes assigned to and traveling in or accompanying such cars will be allowed pay at straight time rate for the hours of their regular assignment, including such hours on a rest day or holiday. Employes moving as above, outside of regular hours, will be allowed pay at straight time rate while the cars are in transit."

The crux of this case hinges on precisely what is meant by the words "in transit" contained in the above rule. Petitioner contends that the cars, having been billed from Choctaw Yard to Theodore, were "in transit" from 5:45 P.M., that it is understood that cars are "in transit" from Point A to Point B, the former being the location prior to the beginning of the move, and Point B being the location at destination. Carrier, on the other hand, alleges that the movement from Choctaw Yard to Sibert Yard was within the terminal limits of Mobile, Alabama, and, as such, was a terminal switch engine movement. The Carrier submits that an "in transit" movement as contemplated by Rule 20, begins at the time the camp cars depart from one terminal, station or headquarters point en route to another. The headquarters point in this case was Mobile, later being changed to Theodore, and that claimants are entitled to travel pay only for the time expended traveling from Mobile to Theodore.

Neither side to this controversy has been able to cite any awards of this Board dealing even remotely with the precise point involved in this case. It does, however, appear to us that where, as in this dispute, cars are moved from one yard to another, within a relatively short distance from each other, and obvious plans have been made beforehand to set aside these cars until the next morning before departing for the new destination, we are being requested by petitioner to place a strained construction on the words "in transit". We could indeed envision other circumstances in which the same amount of time could be consumed for such a relatively short distance as in the instant case, where the words "in transit" would be interpreted consonant with the arguments propounded by this petitioner. However, we are here concerned with a situation which is quite specific and extremely narrow. It is to be remembered that the petitioner as the initial moving party, has the onus of presenting to this Board a preponderant body of evidence to sustain his claim. He has not done so in this case and we must, therefore, deny the claim.

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 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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of December 1964.