

**Award No. 15756**  
**Docket No. MW-16358**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Wesley Miller, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**  
**CHICAGO, ROCK ISLAND & PACIFIC 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 reimburse B&B employes J. J. Russell, L. C. Truhlicka, H. D. Hoffman, H. Kulhanek, Jr., C. R. Keeler, J. R. Haskell and Paul Jueneman for noon day meal expenses incurred on October 6 and 7, 1964, while away from their headquarters by direction of the Carrier.

(2) The Carrier now be required to reimburse the claimants for the aforesaid noon day meal expenses as follows:

| Name             | Date    | Amount | Total  |
|------------------|---------|--------|--------|
| J. J. Russell    | 10/6/64 | \$1.50 |        |
| J. J. Russell    | 10/7/64 | \$1.55 | \$3.05 |
| L. C. Truhlicka  | 10/6/64 | \$1.50 |        |
| L. C. Truhlicka  | 10/7/64 | \$1.40 | \$2.90 |
| H. D. Hoffman    | 10/6/64 | \$1.40 |        |
| H. D. Hoffman    | 10/7/64 | \$1.35 | \$2.75 |
| H. Kulhanek, Jr. | 10/6/64 | \$1.50 |        |
| H. Kulhanek, Jr. | 10/7/64 | \$1.40 | \$2.90 |
| C. R. Keeler     | 10/6/64 | \$1.30 |        |
| C. R. Keeler     | 10/7/64 | \$1.50 | \$2.80 |
| J. R. Haskell    | 10/6/64 | \$1.50 |        |
| J. R. Haskell    | 10/7/64 | \$1.55 | \$3.05 |
| Paul Jueneman    | 10/6/64 | \$1.50 |        |
| Paul Jueneman    | 10/7/64 | \$1.40 | \$2.90 |

"March 19, 1965  
File: 10-E-46

Mr. G. E. Mallery  
Vice President-Personnel  
Chicago, Rock Island and Pacific Railroad  
LaSalle Street Station  
Chicago, Illinois

Dear Sir:

I am hereby appealing to you from Mr. O. R. Thurston's decision to Mr. G. D. Kellogg account of Claim turned in for B&B Gang turning in their noon day meals on October 6 and 7, 1964.

These men were directed by Mr. R. B. Stone, Master Carpenter, to leave their outfit cars at Lincoln, Nebraska and go to South Bend, Nebraska, some 30 miles away and work there on October 6 and 7, 1964. Then he turned down their noon-day meals on these days. This is a direct violation of the Maintenance of Way Agreement.

I am now requesting you allow the expenses for J. J. Russell, C. L. Truhlicka, H. D. Hoffman, H. Kulhanek, Jr., C. R. Keeler, J. R. Haskell and Paul Jueneman, a total of \$20.33. Each man's total should be shown in Mr. Thurston's file.

Please obtain complete file from Mr. Thurston and allow Claim.

Yours truly,

/s/ Jay W. Cope  
General Chairman"

11. On May 5, 1965, this claim was denied by Carrier's Vice President-Labor Relations on the basis of the previous declinations as being correct.

12. Subsequently, General Chairman was told in conference on August 4, 1965, that the instructions issued in 1961 were not in conflict with the Agreement provisions and no rule in the Agreement between the parties had been cited that would support this claim.

13. The claim was not resolved in further conference or correspondence between the parties.

**OPINION OF BOARD:** This claim must be denied because there is no rule in the agreement of the parties which supports it.

The Employees ask for a sustaining award on the basis of the provisions of Rule 34 (c) of the Agreement. This could have been granted if a mutually agreed-upon interpretation had not been added to and made part and parcel of the rule itself. The parties' relevant interpretation reads as follows:

"Section (c) is intended to cover employees who may in an emergency be called out to perform work on or off their regular assigned territory and held away from their home or regular boarding or outfit cars . . ." (Emphasis ours.)

The employees do not contend in this claim that they were called out to perform work in an emergency situation; instead, they rely upon the portion of the above sentence which commences with the word, "and." This conjunctive word operates to make the phrase, "in an emergency," applicable to the entire paragraph interpreting what Section (c) is intended to cover.

There is insufficient evidence of record to justify sustaining the claim on a mutually accepted past practice theory.

We have examined our Awards 12832, 10923, 3698, and Second Division Award 3658, which have been presented in support of the position of the employees. These are distinguishable because of variance in the wording of the applicable contractual provisions, i.e., Award 10923 is based on the wording of Article 2, Section 8 (d), of the Agreement of the parties in that case — which is quite different to the wording of said Section (c). None of the awards cited is applicable to the above mutually agreed-upon interpretation of Section (c).

Therefore, the claim is denied.

**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 not violated.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of July 1967.