



Award No. 16538
Docket No. MW-17246

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**NORFOLK AND WESTERN RAILWAY COMPANY
(Lake Region)**

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 Hoisting Engineer Roscoe Wills pay for travel time consumed on March 14, 1966. (System File 30-20-157.)

(2) Hoisting Engineer Roscoe Wills be allowed two (2) hours' pay at his straight time rate because of the violation referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: Claimant Wills is the regularly assigned operator of Diesel Crane No. X0031, with an assigned work week extending from Monday through Friday (Saturdays and Sundays are rest days). The claimant's designated headquarters are at his mobile outfit cars, which are also the starting point for each day's work. In this case, the claimant's outfit cars had been located at Conneaut, Ohio, which is also his place of residence.

During the week of March 7 through March 11, 1966, the claimant was operating Diesel Crane No. X0031 in the Conneaut area. On Friday, March 11, 1966, the claimant completed the work assigned to him in that area and, in compliance with orders given by the Carrier, he billed his crane and outfit cars to Bellevue, Ohio, where he had been instructed to begin work on Monday, March 14, 1966. Because there was no work to be performed at Bellevue until Monday morning, the claimant remained at his home in Conneaut on Saturday and Sunday (his rest days). On Monday, March 14, 1966, he traveled from Conneaut to Bellevue, Ohio, arriving there well in advance of his regular starting time.

In submitting his timeroll for the first half of March, 1966, the claimant entered two (2) hours of travel time to cover the time expended in traveling from Conneaut to Bellevue, Ohio. Although this travel time was incurred in compliance with the Carrier's instructions, the Carrier deleted the two (2) hours of travel time from his payroll and refused to pay him therefor.

Copies of correspondence reflecting the subsequent handling of the claim on the property are attached hereto as Carrier's exhibits, and are identifiable as follows:

EXHIBIT B - May 12, 1966 - Denial of claim - Division Engineer to General Chairman.

EXHIBIT C - June 17, 1966 - Appeal - General Chairman to Regional Engineer.

EXHIBIT D - June 24, 1966 - Denial of appeal - Regional Engineer to General Chairman.

EXHIBIT E - August 10, 1966 - Appeal - General Chairman to Director of Personnel.

EXHIBIT F - August 12, 1966 - Acknowledgment of appeal - Director of Personnel to General Chairman.

EXHIBIT G - October 7, 1966 - Denial of appeal - Director of Personnel to General Chairman.

EXHIBIT H - February 13, 1967 - Affirmation of denial - Manager Labor Relations (former Director of Personnel).

EXHIBIT I - April 13, 1967 - Reaffirmation of denial - Manager Labor Relations (former Director of Personnel).

EXHIBIT J - May 15, 1967 - Letter - General Chairman to Manager Labor Relations (former Director of Personnel).

EXHIBIT K - June 9, 1967 - Letter - Manager Labor Relations to General Chairman.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was the regularly assigned operator of a Diesel Crane with an assigned work week of Monday through Friday inclusive, Saturdays and Sundays rest days. His headquarters consisted of Camp Cars provided by the Carrier. He was performing his normal duties during the week of March 7 to March 11th inclusive near Conneaut, Ohio, which coincidentally was his residence as well as his Camp Car headquarters for that period of time. Claimant was instructed by the Carrier to bill his crane and Camp Car to Bellevue, Ohio, and to report there for a new project starting Monday, March 14th. Following such instructions, the Crane and Camp Cars were so billed, having been shipped to Bellevue over the weekend. He remained at his home in Conneaut over the weekend and proceeded to Bellevue on Monday morning to undertake the new assignment. He submitted a claim for two hours' pay at the pro-rata rate for traveling time between his home, Conneaut to Bellevue, pursuant, he contends to the provisions of Rule 46 of the Agreement.

The pertinent portions of Rule 46 with which we are concerned reads:

"RULE 46. TRAVEL TIME

Except as otherwise provided in these rules, employees required by the Management to travel on or off their assigned territory will be

allowed pro rata rate for all time traveling or waiting during or outside of their assigned working hours, and on rest days, and the holidays specified in Rule 31, except:

(d) Employees will not be allowed time while traveling, in the exercise of seniority rights or between their homes and designated assembling points or for other personal reasons."

Petitioner argues that the first paragraph, taken by itself is applicable, whereas Carrier assumes the position that sub-paragraph (d) is applicable to the issue at hand. The principal factor in this case is identical to that which was considered by the Board in Award 16333 (Heskett), wherein it was stated that "the result of Claimant's detraining at Conneaut places him squarely within the exception to Rule 46 and the prohibition of paragraph (d), i.e., "traveling . . . between their homes and designated assembling points." That is precisely what was done in this case, and we therefore reaffirm that decision. We will deny the claim.

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 Employees 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 the Agreement was not violated by the Carrier.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 2nd day of August 1968.