

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

BOSTON AND MAINE CORPORATION

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Boston and Maine Railroad, that:

In a letter to Superintendent Estey, dated February 24, 1964, R. L. Bean, Agent at the dualized agencies of Milford-Goffstown, New Hampshire, initiated a continuous claim as follows:

'Please then accept this as my claim for declined portion of twenty miles per day for twenty days at \$.07 per mile, \$1.40 per day, a total of \$28.00 for period January 20, 1964 to and including February 14, 1964, and as I travel this same route daily five days per week excepting holidays also please accept this as a continuous claim for any future declined return portion of mileage between Milford, N.H. and Goffstown, N.H. at same figure of \$.07 per mile.'

EMPLOYEES' STATEMENT OF FACTS: The facts in this case are not in dispute and are relatively simple. Mr. R. L. Bean, Claimant, was awarded and occupies a position assigned to work as shown on the bulletin notice attached hereto, marked TCU Exhibit 1.

Mr. Bean works in Manchester, New Hampshire. Each day, he must drive twenty miles from his home to the starting point of his work location, Milford; which is not a question involved in this claim. His assignment requires that he depart from his initial station, Milford, at 2:00 P. M., drive twenty miles to Goffstown to start work there at 2:45 P. M.; which is not a question involved in this claim because Carrier allows auto mileage for this trip.

Upon completion of his work at Goffstown, Mr. Bean contends, and this is the question involved in the claim, that he should be granted return trip mileage allowance to Milford; which payment Carrier denied.

Attached hereto, marked TCU Exhibit 2, is a map depicting the stations and area involved. In the box marked thereon, the lower circle shows Milford, the upper most circle shows Goffstown, and the circle to the right shows Manchester.

Correspondence exchanged between the parties in the property handling is attached hereto, marked TCU Exhibit 3, and made part hereof. Said Documentation will disclose that this dispute has been handled in accordance with the requirements of law and rules of procedure of your board, but failed of settlement.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: On April 6, 1960 the parties entered into an agreement permitting dualization of agencies. See copy attached hereto as Carrier's Exhibit A.

There were agents employed at Goffstown and at Milford, New Hampshire, stations approximately twenty (20) miles apart by highway. Both stations are located within the same seniority district and traffic had diminished to the extent that one agent could properly service both locations. The Carrier petitioned the New Hampshire Public Service Commission to permit such dualization and the Commission approved the petition effective November 25, 1963. The directive required the agencies be opened as follows:

Milford, N.H.	8:00 A. M. to 2:00 P. M.
Goffstown, N.H.	2:45 P. M. to 5:00 P. M.

The position at the dualized agencies was posted for bid, and copy of vacancy notice No. 17 is attached hereto as Carrier's Exhibit B. The claimant was the successful bidder.

(Exhibits not reproduced.)

OPINION OF BOARD: The Claimant in this case resides in Manchester, New Hampshire, travels a distance of some 28 miles to Milford, New Hampshire where his work day begins at 8:00 A. M. and continues until 2:00 P. M. (Lunch 12:00 Noon to 1:00 P. M.); at 2:00 P. M., he closes the station at Milford, travels some twenty miles to Goffstown, New Hampshire and works at this station from 2:45 P. M. to 5:00 P. M., at the conclusion of which tour he returns to his residence in Manchester, repeating the same procedure each work day. Claimant uses his private automobile for transporting himself between Milford and Goffstown and has been compensated by the Carrier for this travel. The claim submitted to us for adjudication is for return mileage from Goffstown to Milford, even though this travel is not performed during the prescribed duty hours of this "dualized station" position. Claimant returns to his residence in Manchester since there is no work for him to perform at that time in Milford.

Claimant relies on Article 24 of the Agreement and a letter Agreement between the parties dated April 6, 1960, which pertains exclusively to dualized stations. Among other things, this latter agreement, for the purpose of

"establishing a fixed policy, to allow a man to divide his time between two or more stations, the following is agreed upon":

" * * * * *

* * * * *

(3) All travel time between the two stations to be considered as a part of the regular eight (8) hours tour of duty. Article 24(g) will apply."

Article 24(g) states that:

"(g) Employees shall not be required to furnish their privately owned automobile for Railroad use. Employees requested to, and who do use their privately owned automobiles for Railroad business, shall be allowed mileage therefor at the rates shown in paragraph (f-3) (b) hereof. The Railroad will pay the premiums on any liability or other insurance required by it."

Another pertinent portion of Article 24 relative to this claim is subparagraph (e) which reads:

"(e) When employees, other than regular relief and spare employees, are authorized to use their private automobiles on railroad business and do so they will be reimbursed for such use at the mileage rates provided for in paragraph (f-3) (b) below."

The evidence of record before us includes the copy of the bulletin establishing the position, to which Claimant responded and to which he was assigned. Only the hours of duty are listed in this bulletin at each station with no mention being made of travel time. The bulletin establishing the position is therefore silent on the issue confronting us.

Referring to subparagraph 3 of the letter Agreement quoted *infra*, we can find no basis for sustaining this claim in the language of that Agreement, although it is admittedly vague. Travel from Goffstown to Milford, the mileage claim itself, is simply not performed. Claimant's tour of duty ends at 5:00 P. M. at Goffstown. He then returns home.

Article 24(e), quoted above, states quite clearly that when employees are authorized to use their private automobiles on **Railroad business** and do so, they will be reimbursed. There is no evidence that Claimant was authorized to travel from Goffstown to Milford and as stated above, such travel was never performed.

We can find no substantial evidence in this record to convince us that it has been the practice over a protracted number of years for Carrier to pay mileage claims to its employees for travel not performed during their official tour of duty. It is true that in the handling of this claim on the property that one of Carrier's officials stated that in reply to a letter from the General Chairman,

"My understanding is the same as yours, that is, that both travel time and mileage apply in both directions. The agent at dualized

stations should leave the away from home station in time to arrive at his home station at the end of his eight hours of duty unless he is otherwise instructed." (Emphasis ours.)

The key words in the above reply are underlined. In the instant case, neither station is designated as the home station and indeed both parties agree that the tour of duty ends at 5:00 P. M. at Goffstown and that there is no reason for Claimant to return to Milford. Furthermore, we cannot find any grounds in either subparagraph (e) or (g) of Article 24, which would permit us to sustain this claim. There simply is no evidence in this record to enable us to render a sustaining award.

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 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 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 25th day of October 1968.