

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION****John H. Dorsey, Referee**  

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**PARTIES TO DISPUTE:****BROTHERHOOD OF RAILROAD SIGNALMEN****SEABOARD COAST LINE RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company:

On behalf of Signal Maintainer Cordell Sapp, MacClenny, Florida, for pay, as listed herein below, to be allowed in addition to any compensation he may already have received for attending court in the State Court at Birmingham, Alabama, on February 12, 1968, on behalf of and at the direction of Carrier as a witness in the trial resulting from an accident at Irondale, Alabama, on January 10, 1966, Lillie Mae Looney Mason v. Seaboard Air Line.

1. Preparation time — one (1) hour at pro rata rate — for February 12, 1968, as provided in Rule 19(d) of the current Signalmen's Agreement.
2. Overtime — two (2) hours and forty (40) minutes at the time and one-half rate — for services performed from 6:00 A. M. to 8:00 A. M., February 12, 1968 as provided in Rule 16 of the current Signalmen's Agreement.
3. Travel time — seven (7) hours and twenty (20) minutes at the pro rata rate — for such service outside his regularly assigned hours on February 12 and 13, 1968, from 5:00 P. M. to 12:20 A. M., as provided in Rule 19 of the current Signalmen's Agreement. (Carrier's File: 15-24; 15-19.)

**EMPLOYEES' STATEMENT OF FACTS:** Claimant is a Signal Maintainer regularly assigned to work from 8:00 A. M. to 5:00 P. M., Monday through Friday, with headquarters 27.2 miles west of Jacksonville at MacClenny, Florida, on the line which runs to Chattahoochee.

As is indicated by Brotherhood's Exhibit No. 1, Signal Maintainer Cordell Sapp was notified to be present and appear as a Carrier witness in a trial set for hearing in the State Court of Alabama at Birmingham on February 13, 1968.

I still cannot agree with you that Mr. Sapp should be paid for this date under Rules 16 and 19(d) of the agreement rather than Rule 24. To do so would mean completely ignoring Rule 24, Attending Court, a specific rule providing how an employee will be paid for attending court as a witness for the railroad, as in this case.

We are familiar with the awards cited by you but cannot agree that they are controlling in this case and take precedence over pertinent awards denying similar claims in similar cases. In addition to the awards previously cited to you, including Award 6374 denying a similar claim of a Signal Foreman for travel time outside of assigned hours, you are referred to Third Division Awards 7090, 9420, 12408 and 14408 also supporting our position.

Therefore, I still feel that our decision of June 5, 1968, was proper and cannot agree to pay this claim."

Rule 24 of the current working agreement is the governing rule in this dispute and reads as follows:

#### "RULE 24. ATTENDING COURT

An employee, at the request of management, attending court, inquests, or appearing as witnesses for the railroad, will be furnished transportation and will be allowed compensation equal to what would have been earned on his work day had such interruption not taken place and in addition necessary actual expenses.

Employees attending court, inquests, or appearing as witnesses under this rule on rest days and holidays, which would require payment under this rule had he worked on a work day, shall be compensated to the same extent as prescribed in the above paragraph for each day so held or used, except at the overtime rate.

Any fees or mileage accruing will be assigned to the railroad."

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant, a Signal Maintainer with headquarters at MacClenny, Florida—26 miles west of Jacksonville—was requested to attend court in Birmingham, Alabama, as a Carrier's witness in a legal action involving a grade crossing accident. The accident was at a place which was at the time of occurrence within territory assigned to Claimant.

Claimant left Jacksonville at 7:30 A. M. on February 12, 1968; arrived Birmingham at 6:35 P. M. He departed Birmingham the same night at 10:35 P. M. and arrived at Jacksonville the next morning at which time he returned to his regular assignment. Claimant was paid for transportation costs including sleeping accommodations, four meals and the regular compensation of his regular assignment for February 12 and 13. The claim is for additional compensation citing the following Rules in support: Rule 16, Overtime and Calls; Rule 19, Hourly Rated Employees Leaving Home Station and Not Returning Same Day.

Carrier's defenses are: (1) Rule 24, Attending Court is specific, applicable and prevails over all other Rules under the circumstances here involved which

prescribes the extent of compensation to which Claimant was contractually entitled; and (2) Claimant was fully compensated as provided for in Rule 24, a fact not controverted by Petitioner.

Rule 24 reads in material part:

**"RULE 24. ATTENDING COURT**

An employee, at the request of management, attending court, inquests, or appearing as witnesses for the railroad, will be furnished transportation and will be allowed compensation equal to what would have been earned on his work day had such interruption not taken place, and in addition, necessary actual expenses." (Emphasis ours.)

We find the Claim to be without merit because: (1) Special rules, of which Rule 24 is one, prevail over general rules such as Rules 16 and 19; (2) the Board must interpret and apply the Agreement as written; (3) we may not digress from the terms of the Agreement to dispense our sense of equity; and (4) Claimant was fully compensated as contractually prescribed in Rule 24.

The fact that the action at law was settled and Claimant was not called to the witness stand is immaterial. It did not affect Claimant's status as a witness within the contemplation of Rule 24.

**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.

**AWARD**

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of October 1970.

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