



Award No. 18579
Docket No. MW-18847

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

BURLINGTON NORTHERN INC.

(Formerly Chicago, Burlington & Quincy Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it reduced the meal allowance of the members of B&B Gangs Nos. 1 and 2 on the LaCrosse Division from three (3) to two (2) dollars per day. (System files 20-3/M-1339-69 and 20-3/M-1347-69).

(2) B&B Employees G. A. Schalach, D. J. Manske, K. A. Kleinschmidt, E. E. Kapanke and L. J. Richardson each be allowed an additional one (1) dollar for each day they are assigned to said gangs or until their outfit cars are adequately equipped with cooking and eating facilities.

EMPLOYEES' STATEMENT OF FACTS: The claimants are members of B&B Gangs 1 and 2 on the LaCrosse Division. They are employed in a type of work the nature of which requires them throughout their work week to live away from home in outfit cars and, therefore, they are entitled to receive a daily meal allowance in accordance with the provisions of Rule 59 which, insofar as it is pertinent hereto, reads:

"OUTFIT CARE — LODGING — MEALS

The company shall provide for employees who are employed in a type of service, the nature of which regularly requires them throughout their work week to live away from home in outfit cars, camps, highway trailers, hotels or motels as follows:

* * * * *

(d) If the railroad company provides cooking and eating facilities and pays the salary or salaries of necessary cooks, each employe shall be paid a meal allowance of \$1.00 per day.

(c) If the railroad company provides cooking and eating facilities but does not furnish and pay the salary or salaries

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The claimants referred to in the Statement of Claim were members of LaCrosse Division B&B Gangs Nos. 1 and 2. Combination kitchenbunk car 25114 was assigned to Gang No. 1, and car 251074 to Gang No. 2 during the period of this claim, beginning October 20, 1968. These cars were equipped with stove, refrigerator, utensils, dishes and cutlery.

The claimant employes were paid a meal allowance of \$2.00 per day in accordance with Rule 59(e) of the agreement between the parties entered into on February 21, 1968 pursuant to the provisions of Arbitration Award 298 dealing with expenses away from home. Claim is made herein that the cooking and eating facilities provided by the Carrier did not meet the standards set forth in Rule 59(h), and that the claimants were therefore entitled to the \$3.00 per day allowance stipulated in Rule 59(f).

Rule 59 just referred to, and other rules not pertinent to this particular dispute, are included in a Memorandum of Understanding entered into by the parties to this dispute on February 21, 1968, pursuant to the option of the Employes to elect to adopt Sections I and II of Arbitration Award 298. A copy of this Memorandum of Understanding is attached hereto as Carrier's Exhibit No. 1.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts involved in this case encompass essentially the same facts as contained in Award No. 18577. Therefore, for the same reasons as outlined in Award No. 18577, this claim will be dismissed.

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 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.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1971.

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2 which represent documentary evidence to the contrary. The questionnaires, attached hereto as Employees' Exhibit "A," were enclosed with our letter of January 13, 1970, which reads:

"January 13, 1970
20-3

Mr. C. M. Youhn, Director of
Labor Relations — C.B.&Q. Railroad
Chicago, Illinois

Dear Sir:

This has reference to claims pending in behalf of members of B&B Gangs #1 and #2 of the LaCrosse Division, identified under your files M-1304-69, M-1339-69 and M-1347-69. These claims involve our request that members of the gangs be paid a meal allowance of \$3.00 per day instead of \$2.00 per day.

It is our position the cooking and eating facilities furnished these gangs does not warrant the payment of \$2.00 per day meal allowance.

To substantiate our position in this regard we have obtained signed statements from members of the gangs in the form of a 'Questionnaire' and we are furnishing you a photocopy of the statements received from each gang.

Very truly yours,

HJM:lh
opeiu #5
encls."

/s/ H. J. McWilliams
H. J. McWilliams
General Chairman

The claim filed in behalf of the members of B&B Gangs 1 and 2 was filed on December 16, 1968 and is now pending adjudication by this Board in Docket MW-18731. However, because B&B employees are required to and often transfer from one gang to another, and because new employees were hired and assigned to B&B Gangs 1 and 2 subsequent to December 16, 1968, it was necessary to file two (2) additional claims so as to include the afore-described employees. These two (2) claims, which we have combined into this claim, were filed on April 2 and June 9, 1969 respectively. The claim filed on April 2, 1969 (20-3/M-1339-60), covered the new employees and it was stipulated that "Our claim to be effective as of the date these employees entered the service of the railroad." The claim filed on June 9, 1969 (20-3/M-1347-69) covered the employees who had been transferred to the two (2) B&B gangs and it stipulated that the claim would be retroactive 60 days from the date Case No. 20-3/M-1347-69 was filed on the property. (It included employees who were also claimants in Docket MW-18731, now pending adjudication by this Board. To avoid duplication, said claimants' names have been deleted from this claim).

Claim was timely and properly presented and handled by the Employees at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.