Award No. 18924
Docket No. MW-19249

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ST. LOUIS-SAN FRANCISCO RAILWAY 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 Mechanics Paul Greenfield and R. L. Hensley for actual necessary expenses incurred when they were required to leave their home station to perform work elsewhere during the final pay period of August, 1969. (System File A-9129/D-5111.)

(2) The Carrier now be required to allow B&B Mechanics Paul Greenfield and R. L. Hensley the sum of $15.70 and $17.05 respectively to make them whole for the monetary loss suffered because of the violation referred to within Part (1) of this claim.

(3) The Carrier shall also pay the claimants ten percent (10%) interest per annum on the monetary allowances accruing from the initial claim date until paid.

EMPLOYES' STATEMENT OF FACTS: Claimants Greenfield and Hensley are B&B mechanics regularly assigned to B&B Gang No. 6 which is headquartered at West Tulsa, Oklahoma.

On August 18, 19, 20, 21 and 22, 1969, Claimant Greenfield was required to perform work away from his regularly assigned headquarters' point. Claimant Hensley was required to perform work away from his regularly assigned headquarters' point on August 18, 19, 20, 21, 22 and 26, 1969. In addition to incurring meal expenses on each of these dates, the claimants incurred lodging expenses on August 18, 1969.

At the end of the month, each claimant submitted a Travel Expense Statement (Form G-131) wherein they claimed actual necessary expenses incurred for both meals and lodging. Claimant Greenfield claimed a total of $15.70 and Claimant Hensley claimed a total of $17.05.

The assistant controller of disbursements refused to reimburse the claimants for the entire amount claimed and returned their respective expense state-

On August 26, 1969, Claimant R. L. Hensley traveled from Tulsa, Oklahoma to Sapulpa, Oklahoma where he performed service in his craft, and returned to Tulsa on the same day.

OPINION OF BOARD: Claimants are asking this Board that Carrier be required to compensate them in an amount of $15.70 for Claimant Greenfield and $17.05 for Claimant Hensley for expenses incurred by them for meals and lodging for various dates in August, 1969 while they worked away from their headquarters at West Tulsa, Oklahoma. Carrier, after refusing to pay Claimants for lunch expenses on August 18 and 19, 1969, offered to pay each Claimant $9.45 for expenses incurred on said two dates, which was refused by them.

Claimants are relying on Article 5, Rule 31, of the Agreement, the pertinent parts providing as follows:

> "Employes in temporary or emergency service, except as provided in Rule 24, required by the direction of the management to leave their home station, will be allowed actual time for traveling or waiting during the regular working hours. All hours worked will be paid for in accordance with practice at home station. Travel or waiting time during the recognized overtime hours at home station will be paid for at the pro rata rate.
>
> If during the time on the road a man is relieved from duty and is permitted to go to bed for five or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight hours each calendar day, when such irregular service prevents the employe from making his regular daily hours at home station. Where meals and lodging are not provided by the railway, actual necessary expenses will be allowed."

We agree with the Organization that the employes reserved the provisions of said Article 5, Rule 31 of the Agreement, and therefore said Rule is applicable in the determination of this dispute.

The Organization's position is that any time employes are required by management to leave their assigned fixed headquarters, they are in temporary-emergency service and should continue to receive actual necessary expenses; that whether or not Claimants were working on the territory to which they are regularly assigned and whether or not the work was of a temporary or emergency nature is immaterial, but the controlling factor is that Claimants were required to leave their home station.

Carrier's position is set forth in Carrier's Director of Labor Relations T. P. Deaton's letter of March 3, 1970 to General Chairman C. V. Fetters, when he stated in part as follows:

> "The provisions of Rule 31 of Article V have application in instances where employes are required to leave their home station to perform temporary or emergency service. In my opinion, such was not the case here. Both of the claimants perform service on the Southwestern Division as a part of their regular duties. The service they perform, therefore, on the territory to which they are assigned and as a regular part of their duties does not, in my opinion, meet the requirements of temporary or emergency service as provided in

Article V, Rule 31, of the Basic Agreement between the parties. The claim presented on the basis of the provisions of that rule is, in my opinion, lacking of Agreement support and must be respectfully declined."

The determination of this dispute hinges on what the meaning is of "temporary or emergency service" as set forth in said Rule 31 of Article V of the Agreement.

The Organization contends that payment of full expenses has been paid traditionally and historically by Carrier for many years when Bridge and Building Employes are taken away from their headquarters for such temporary or emergency service. While this may be true, nevertheless we have to determine in this instant dispute whether or not Claimants were in "temporary service" on the dates in question. There is no allegation by the Organization that Claimants were in "emergency" service on said dates.

Although Claimants worked temporarily at Neosho, Missouri and Sapula, Oklahoma on the dates in question, nevertheless we find that Claimants were not in "temporary service" within the intent and meaning of Rule 31, Article V of the Agreement. Claimants are regularly assigned to go to different places to perform their regular and normal duties. They performed their regular duties on their regularly assigned territory on said dates. Therefore, it is the opinion of this Board that Carrier did not violate the Agrement in this instance, and thus we must 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 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; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 7th day of January 1972.

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