

Award No. 18965
Docket No. MW-19308

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 allow Special Equipment Operators R. L. George and D. G. Ellison travel time pay and a mileage allowance for the use of their personal automobiles when their work location was moved to Jasper, Alabama on July 22, 1969 (System File A-9201/D-5024).

(2) Special Equipment Operators R. L. George and D. G. Ellison be allowed \$87.51 and \$102.32 respectively 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 R. L. George and D. G. Ellison are special equipment operators (GROUP B) assigned to work with System Steel Gang No. 930. Employees assigned to system steel gangs accumulate rest days in accordance with the provisions of Memorandum of Agreement date October 6, 1949 which reads:

"MEMORANDUM OF AGREEMENT

In accordance with Article V, Rule 6 (g)(3) of agreement effective September 1, 1937, as revised July 6, 1949, effective September 1, 1949, and Rule 12½ (g)(3) of agreement covering Special Machine Engineers, Operators, Firemen and Helpers effective May 16, 1946, as revised July 6, 1949, effective September 1, 1949, and in order to meet a situation peculiar to employees of the system rail-laying gang, it is agreed:

Section 1. In lieu of employees who are working on the system rail laying gang, and covered by agreements between the railway company and Brotherhood of Maintenance of Way Employees, working 5 days (40 hours) per week and having 2 rest days each week, such employees will be assigned

Claimant D. G. Ellison performed service with Extra Gang 930 July 1 to 12 inclusive and was off on paid vacation July 13 to 22 inclusive.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier refuses to pay the claimed travel time pay and mileage allowance for use of personal automobiles to Claimants on the basis that Claimants were on vacation at the time their work locations were changed and moved from one point to another.

It is undisputed that both Claimants herein were on vacation; Claimant R. L. George from July 8 through July 22, 1969 inclusive; Claimant D. G. Ellison from July 13 through July 22, inclusive. Both Claimants worked for System Steel Gang No. 930. When Claimant George went on his vacation, the said Gang was working at Mounds, Oklahoma. When Claimant Ellison went on his vacation, said Gang was working at Madill, Oklahoma.

After the conclusion of work on July 22, 1969, the Gang went on their accumulated rest days, which extended over the remainder of the month of July. Carrier moved the Gang from Madill, Oklahoma to Jasper, Alabama, where it commenced work, at the end of said accumulated rest period, on August 1, 1969.

On July 22, 1969, after conclusion of the work day, Carrier transported the work crew by bus to their homes; and on July 31, 1969, Carrier provided transportation to the work crew of July 22, 1969 from their homes to Jasper, Alabama, the new work site.

Under Section I-C-1 of the May 7, 1969 Memorandum of Agreement and Paragraph 7 of the Supplemental Agreement of July 11, 1969, time spent in traveling from one work point to another outside of regularly assigned hours or on a rest day or holiday shall be paid for at the straight time rate, and also, an employee, not furnished transportation, shall be reimbursed the cost thereof. If the work point is changed during his absence from the work point on a rest day or holiday, automobile mileage shall be computed at one-half the mileage between work points.

Construing these provisions, it would appear that the proper construction is to allow Claimants herein travel time and one-half mileage on the same basis, when the change of work points occurred during their vacation period, as when it occurred when they were absent from the work point on a rest day or holiday.

This construction is further strengthened by the all inclusive language of Rule I-C-1 involving time spent in traveling from one work point to another "outside of regularly assigned hours." It is clearly seen that Claimants were not on work assignments on July 22, 1969 or at any time between July 22, 1969 to July 31, 1969. The move of the Gang to Jasper, Alabama therefore did not occur, in regard to Claimants, during their regularly assigned hours. Thus we will sustain the claim as to travel time pay and Claimants are entitled to automobile mileage computed at one-half the mileage between Madill, Oklahoma and Jasper, Alabama. However, in view of Award Nos. 6656, 11172, 13478 and 18464, we will deny the claim for interest.

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 violated.

AWARD

Part 1 of the Statement of Claim is sustained in accordance with the Opinion.

Part 2 of the Statement of Claim is sustained in accordance with the Opinion.

Part 3 of the Statement of Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of January 1972.