

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN PACIFIC TRANSPORTATION COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company (Pacific Lines) that:

(a) The Southern Pacific Company (Pacific Lines) violated the Agreement between the Company and the Employees of the Signal Department, effective April 1, 1947, (Reprinted April 1, 1958, including revisions) and particularly Rule 25.

(b) That Signal Maintainer J. T. Kennett be reimbursed the amount of \$4.20, the actual amount expended for cost of meals when called to perform emergency overtime work on May 4, 1969.

(Carrier's File: Sig. 108-39)

EMPLOYEES' STATEMENT OF FACTS: There is an agreement in effect between the present parties bearing an effective date of April 1, 1947, (Reprinted April 1, 1958, including revisions) which is by reference made a part of the record in this dispute. Agreement Rule 25 provides:

"Rule 25. MEALS AND LODGING FURNISHED. In emergency cases, such as derailments, washouts, snow blockades, fires and slides, employees taken away from their headquarters to perform work elsewhere shall be furnished meals and lodging by the Company where possible. If the Company cannot or fails to furnish such meals and lodging, the employees shall be reimbursed for the actual and necessary expense thereof.

Employees assigned to Signal Shops and used for road work beyond local (one fare) transportation facilities of the terminal shall be reimbursed for the cost of all meals and lodging.

Signal maintainers, when used to perform work outside of their assigned territory, will be reimbursed for actual necessary expense for meals incurred while working outside said assigned territory."

Claimant J. T. Kennett on the date here involved was assigned to a position of Signal Maintainer headquartered at Fresno, California; his terri-

incurred on several dates, including meals taken at points while working outside his assigned maintenance territory. That form also indicated that on May 4, 1969, two meals at cost of \$1.70 and \$2.50 were claimed, with explanation that such expense was incurred while working on a hot box detector located at Malaga.

Carrier's Signal Supervisor R. G. Penix at Bakersfield took exception to claimant's expense account and by letter dated May 26, 1969 (Carrier's Exhibit "B"), it was returned to Claimant for correction because the expenses incurred on May 4 1969, at Malaga, as well as other expenses reported at Kingsburg on May 6, 1969, were located within the maintenance territory assigned to Claimant.

Claimant returned his personal expense account form without making any changes thereon and with return of letter dated May 26, 1969 (Carrier's Exhibit "B"), Claimant added the following comment:

"May I direct attention to the first paragraph of Rule 25 of the Signalman's agreement."

By letter dated June 24, 1969 (Carrier's Exhibit "C"), Signal Supervisor Penix again returned the expense account form to Claimant with advice that it would be processed for payment as soon as corrections were made.

3. By letter dated June 28, 1969 (Carrier's Exhibit "D"), Petitioner's Local Chairman (also identified as the Claimant in this case), filed a claim with Carrier's Division Superintendent at Bakersfield in behalf of Claimant for the meal expenses incurred on May 4, 1969, while performing work at Malaga. By letter dated July 8, 1969 (Carrier's Exhibit "E"), Carrier's Division Superintendent on July 21 1969 (Carrier's Exhibit "F"), Petitioner's Local Chairman gave notice that the claim would be appealed.

By letter dated August 7, 1969 (Carrier's Exhibit "G"), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, and by letter dated August 28, 1969 (Carrier's Exhibit "H"), the latter denied the claim.

By letter dated September 4, 1969 (Carrier's Exhibit "I"), Petitioner's General Chairman advised that denial of the claim was not acceptable on the basis that claimant was entitled to be reimbursed for such expenses on May 4, 1969, under provisions of Rule 25 of the current agreement.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, on claim date, was a regularly assigned Signal Maintainer headquartered at Fresno, California. Claimant's territory extended from Carrier's mile-post 209.2 to 231.17. On the date of this claim, Claimant was called to repair a "hot box detector" at Malaga, the same being mile post 210.4, a location within Claimant's assigned territory. Claimant made claim for two meals at the cost of \$1.70 and \$2.50 or the total cost of \$4.20 as expenses incurred while repairing the "hot box detector" at Malaga, mile post 210.14. The Organization cites Rule 25 in support of this claim, which is:

"MEALS AND LODGING FURNISHED. In emergency cases, such as derailments, washouts, snow blockades, fires and slides, employees taken away from their headquarters to perform work elsewhere shall be furnished meals and lodging by the Company where possible.

If the Company can not or fails to furnish such meals and lodging, the employes shall be reimbursed for the actual and necessary expense thereof.

Employes assigned to Signal Shops and used for road work beyond local (one fare) transportation facilities of the terminal shall be reimbursed for the cost of all meals and lodging.

Signal maintainers, when used to perform work outside of their assigned territory, will be reimbursed for actual necessary expense for meals incurred while working outside said assigned territory."

As reasons for denial of this Claim, Carrier contends that Claimant performed no work outside the limits of his assigned maintenance territory; that Claimant was not taken away from his headquarters to perform work elsewhere; and that the work of repairing a "hot box detector" was not an emergency as contemplated by Rule 25.

"Hot box detector" is a device for the detection of and warning against overly heated wheel journals or bearings. Without this device, it is possible that a wheel or bearing can become overheated to the extent that it causes complete failure of the wheel and possible derailment of a train. In this dispute, the language of Rule 25, the Board must determine two questions, to-wit:

1. Does the repair of a malfunction in a "hot box detector" constitute an emergency as contemplated by Rule 25?

2. Was Claimant taken away from his headquarters when dispatched to Malaga to repair a "hot box detector," within Claimant's assigned territory approximately nine miles from his station at Fresno?

If the answer to either of the aforesaid questions is in the negative, Carrier is not contractually liable for reimbursement of meal expenses as claimed in this dispute. Under authority of Awards 3301, 3305, 3306 and 3307 (Simmons), the malfunction of a "hot box detector" does not constitute an emergency. Repair work performed by Claimant in this instance is more accurately classified as regular maintenance work for the purpose of eliminating the possibility of an emergency. Rule 25 pertains only to actual emergencies which require employes to be taken away from their headquarters, such as derailments, washouts, snow blockades, fire and slides. In this instance, no such emergency existed. This involved an emergency preventor that was not functioning properly. Claimant was dispatched to perform maintenance repair work in order to eliminate the possibility of an emergency such as enumerated in Rule 25.

Having answered numerical question No. 1 in the negative, it will be unnecessary for this Board to determine whether or not Claimant was taken away from his headquarters when sent from Fresno to Malaga.

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 11th day of February 1972.