

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **19801**
Docket Number SG-19577

Frederick R. Blackwell, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(The Chesapeake and Ohio Railway Company

(Chesapeake District)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Chesapeake District):

Accept this letter as a formal claim by the Brotherhood of Railroad Signalmen for and on behalf of the Claimants named below. **Claimants** are assigned to a signal gang headquartered at **Hinton**, West Virginia, without camp cars. This claim is presented **on** the assumption that this gang will not be employed for a period of one year at the present location. Therefore the Claimants are entitled to the provisions set forth in our **Agreement** of February 15, 1968 (Arbitration Award **298**) and Official Interpretations thereto. Claim is made for the period beginning February 21, 1970, and continuing until such time as the Carrier **takes** the necessary action to properly compensate the Claimants' in accordance with our Agreement of February 15, **1968** and Official Interpretations thereto.

Claimants are: William W. Boyd, Signal Foreman
W. W. Hatcher, Signalman
R. W. Durrett, Assistant Signalman

(Carrier's File: 1-SC-278)

OPINION OF BOARD: This claim involves the same claimants and issues that were considered in **Award 19478** and, thus, **the merits** of this claim have been previously **considered** and determined by the Board. However, in this claim, we have **a** threshold question concerning alleged violations of time **limits**.

When the Organization filed its claim in **Award 19478**, it stated in a March 3, 1970 letter that:

"Days subsequent to February 20, 1970, not covered within this letter of claim, for which the above named claimants are entitled under the provisions of our Agreement of February 15, **1968** and official interpretations thereto will be filed at **a** later date."

The matters covered by the instant docket were presented to Carrier in the **Organization's** letter dated April 17, 1970. This letter **was** described therein as a "formal claim" for lodging and board for the period beginning February 21, 1970 and continuing until corrective action **occurs**. On July 25, 1970 the Organization wrote that, due to Carrier's non-response to the April 17 letter, the claim was required to be paid under time limits. On August 3, 1970 the Carrier wrote that, because the April 17 letter had been taken as a continuation of the March 3, 1970 claim, which had been denied, a further denial was not deemed necessary.

On these facts Petitioner asserts that its April 17, 1970 letter presented a claim separate and distinct from the March 3, 1970 claim and, accordingly, the Carrier's August 3 letter **was** not within the **60-day** time limit. Carrier says the April 17 letter **was** a continuation of the initial March 3 claim and, alternatively, that, if the April 17 letter was indeed **a** separate claim, then its filing **was** not within the **60-day** time limit because the date of the alleged occurrence of violation **was** January **8**, 1970.

In light of the whole record, particularly the quoted portion of the **Organization's March 3**, 1970 letter, the only function of the April 17 letter **was** to extend the claim period so as to cover dates subsequent to February 20, 1970. In all other material respects the substantive import of the April 17 letter **was** identical to that of the March 3, 1970 letter. In these circumstances we think it is clear that the April 17 **letter was** merely **amendatory** of the March 3 claim and, consequently, we find no problem with the Carrier's treatment of the letter as a continuation of the March 3 claim.

Thus, having found **no time** limits violation, we now come to the merits of the dispute. The Carrier established a signal gang at **Hinton**, West Virginia, from January **8** through May 23, 1970. In connection therewith claim **was** made for lodging and meal allowances under an Agreement which is dated February 15, 1968, and which evolved from the **award** of Arbitration Board No. **298**. In **Award 19478** we awarded **allowances for** meals, but nothing for lodgings, for the period January **8** through February 20, 1970. We shall make the same award herein for the period February 21 through and including May 23, 1970.

The **reasons** for our **award** here are the same as those stated in our opinion in **Award 19478**. However, in that docket, the fact that claimants lived at home **was** not before the Board. That fact is before the Board in this dispute, but it does **not affect** the claimant's rights to meal allowances. In our opinion in the prior docket, after expressly noting that this Board **was** not bound by Interpretations of Arbitration Board No. 298, we then made reference to, and use of, several such Interpretations in a **manner** which we deemed sound and suitable for resolving the dispute. In connection with claimant's living **at** home, we now call attention to Interpretation No. 58.

"INTERPRETATION NO. 58 (Carrier's Question No. 1: MWE end CB&Q)

QUESTION: Are Section 1 employees entitled to meal allowance while stationed in their **home** towns end such employees are living **et** home with their families?

ANSWER: **Yes.** See Interpretation No. 55."

Also on the broader question raised by this claim attention is called to Interpretation No. 38.

"INTERPRETATION NO. 38 (Question No. 27: BRS end C&O (Chesa.)

QUESTION: When Carrier established a signal gang with a headquarters point but did not furnish camp cars **or** other lodging or dining **facilities**, end abolished the gang after six weeks, were **the employees** assigned to that gang entitled to the meals end lodging provisions of Article I of the Award?

ANSWER: This question is **answered** by Interpretation No. 12."

We shall **also** note, es we did in **Award 19478**, that, even though the Award of Arbitration Board No. 298 is involved in this dispute, there is no jurisdictional barrier to this Board's determining the dispute, Indeed, the Carrier's **Submission** specifically states that:

"... it is the **Carrier's** position that the Schedule Agreement es revised by the February 15, 1968, Agreement is involved in this dispute rather than Arbitration Award No. 298 es such."

In view of **the** foregoing we shall deny the claim for lodging, but shall sustain the claim for meal allowances for the period February 21, 1970 through end including May 23, 1970.

FINDINGS: The **Third** Division of the Adjustment Board, upon the whole record end all the evidence, finds end holds:

That the parties waived oral hearing;

That the Carrier end the **Employees** involved in this dispute **are** respectively Carrier and **Employees** within the meaning of the **Railway** Labor Act, es approved June 21, 1934;

8576
8597
8598
1075

Award Number **19801**
Docket Number **SG-19577**

Page 4

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated to the extent indicated in the Opinion.

A W A R D

The claim is denied in part and **sustained in part, as indicated in the Opinion and Findings.**

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 20th day of **June 1973.**