

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19955  
Docket Number MW-19808

Burl E. Hays, Referee

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Louisville and Nashville Railroad Company

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

(1) The Carrier violated the Agreement when it refused to allow Crane Operator C. W. Pate travel time pay and the meal and mileage expense he incurred while working on territory outside the scope of this Agreement from January 3, 1970 to February 5, 1971 both dates inclusive (System File 1-12/E-381-8).

(2) Crane Operator C. W. Pate be allowed four (4) hours of travel time pay at his straight time rate for each Friday and Sunday within the aforesaid claim period and be paid expenses as itemized on the expense sheets be submitted for the period from January 3, 1970 to February 5, 1971.

OPINION OF BOARD: Claimant C. W. Pate was a machine operator regularly assigned as a locomotive crane engineer on the Evansville Division of the Louisville and Nashville Railroad Company. The Brotherhood maintains that his seniority rights as such are set forth in Rule 4(e) of the Agreement between the Brotherhood of Maintenance of Way Employees and this Carrier effective May 1, 1960.

Effective June 5, 1969, that portion of the Chicago and Eastern Illinois Railroad between Evansville, Indiana and Woodland Junction was purchased by the Louisville and Nashville Railroad Company. On or about January 3, 1971, Carrier assigned Claimant to perform work on this acquired portion of C&EI at Terre Haute, Indiana.

Claimant alleges Carrier violated the Agreement when it refused to allow him travel time pay and meal and mileage expense he incurred while doing this work on what he claims is "territory outside the scope of this Agreement."

Carrier states that when this portion of C&EI was acquired it "became the Chicago Sub-division of this Carrier's operating Evansville Division and, that since Claimant's position was bulletined and assigned by the Evansville Division, "it necessarily follows that the Evansville Division is his Home Division."

Carrier further maintains Claimant is a System Service **Employee**, covered under Rule 11 of the Agreement, which provides that these type employees will hold seniority on their home seniority district only, but "**may** be worked on other seniority districts." (Rule 11 (a) and (b) quoted in Employees' Statement of Facts.)

Carrier also states that under the aforesaid Rule 11 such System Service Employees do not receive actual necessary expenses unless they are working off their Superintendent's division.

This is where the dispute arises. The Brotherhood maintains Claimant was working off his Superintendent's division. Rule 4(e) of Agreement of May 1, 1960, reads:

"The Seniority ranks and the territorial limits of seniority districts as described herein may be changed at any time by mutual agreement between the Director of Personnel and the General Chairman. The rights of **employees** thus affected will be determined likewise by mutual agreement ."

The assignment by Carrier of the newly acquired portion of **C&E** to its Evansville Division in effect created a reorganization of seniority districts. Under Rule 4(e) of the Agreement this could only be done by mutual agreement between the General Chairman and the Director of Personnel. The language is clear and unambiguous. There is no evidence in the record of any such mutual agreement. The territory Claimant was sent to was therefore under Agreement between **C&E** Railroad Company and the Brotherhood, effective May 15, 1953, not under the May 1, 1960 Agreement with this Carrier.

We feel that Carrier erred in extending the division without **compliance** with the provisions of Rule 4(e) of the May 1, 1960 Agreement.

Although we agree with Carrier that Claimant's headquarters was his camp car, since he was required to work off his seniority district, he should be reimbursed for his actual necessary expenses under the provisions of Rule **11(b)**.

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.

A W A R D

Claim Sustained.

NATIONAL RAILROAD **ADJUSTMENT** BOARD  
By Order of Third Division

ATTEST:

A.W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 28<sup>th</sup> day of September 1973.