

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20545  
Docket Number SG-20345

Dana E. Eischen, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Central Vermont Railway, Inc.

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central Vermont Railway, Inc:

In behalf of monthly-rated Maintainers J. F. Reynolds, L. E. Reed, E. H. Patnode, J. F. Nelson, C. S. Manning, R. R. Boucher, B. S. Pierce, and R. R. Wheble for noon meal expense money from March 13, 1972, to April 30, 1972.

[Carrier's File: 8385-6]

OPINION OF BOARD: The named Claimant6 in the instant case are monthly rated Signal Maintainers in the employ of Carrier. On March 9, 1972 Carrier issued an interdepartmental memorandum in regard to future expense account submissions as follows:

"TO ALL C&S DEPT. EMPLOYEES:

The practice of the Communications & Signals dept. of the C.V. Railway bearing the cost of noon meals for all classes of C&S maintenance employee6 is to be discontinued as of Monday March 13, 1972. It is our intention to adhere strictly to rule 19 and rule 43 G of the Agreement between the Central Vermont Railway and the B R S of A dated June 1, 1962. These rules make the railway responsible for expenses only when the employee6 do not return to their home station and it becomes necessary to provide both meals and lodging.

C.J.Mullen

Supvr. C&S"

Thereafter, commencing March 13, 1972 Carrier refused to pay noon meal  
● open6 submitted by Claimants.

On May 13, 1972 Petitioner herein, on behalf of the named claimants, claimed expense money for noon meal expenses under Rule 43(g) of the Agreement. Carrier declined to pay the claim6 and the matter comes to us for resolution.

Rule 43(g) reads in pertinent part as **follows**:

"(g) Where meals **and** lodgings are not furnished by the Carrier, or when the service requirements make the purchase **of** meals and lodging **necessary** while away from home point, employees will be paid necessary expenses.

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Petitioner alleges and Carrier concedes that for nearly fifty (50) year<sup>6</sup> it ha<sup>6</sup> been the continuous and uninterrupted practice for Carrier to reimburse Signal **employees for** noon meals, irrespective of whether the **employee** required lodging and/or was held **away** from home point overnight. Carrier insist<sup>6</sup> however that such payments represented an "erroneous application" of Rule 43(g) which it **now** seeks to correct by eliminating said practice. Correlatively, Carrier argues that Rule **43(g)** clearly and unambiguously requires meal allowances only if the employee also **incurs** lodging expenses, citing **Third Division Award 18971**. Notwithstanding able argument by Carrier **on** this point, we are not persuaded such **is** the case herein.

Award 18971 is distinguishable from our **case** in that past **practice** **was** not mentioned in that Award, but **is** at the crux of the instant **case**. We find Third **Division Awards 18267 and 18548** more **in** point and persuasive. 10 construing language not dissimilar to that here **involved** we pointed out that where contractual language is not **clear and unambiguous on** a disputed point, a long standing, consistent and mutually accepted practice may be deemed controlling. Such clearly **is** the **case** before **us**. Rule **43(g)** doe<sup>6</sup> **not** expressly and unambiguously preclude noon meal **payments** such a<sup>6</sup> are here involved, no **more** than it expressly required them. But a **consistent past** practice of paying for such noon **meal** expenses is, under **generally** recognized arbitral principles, indicative of the intent of the **parties** that such payments are mandated by Agreement and cannot be unilaterally terminated. In the circumstance<sup>6</sup> we **must** sustain the claim.

**FINDINGS:** The Third Divisioo 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**, a<sup>6</sup> approved **June 21, 1934**;

That this Division of the Adjustment **Board** ha<sup>6</sup> **jurisdiction** over the **dispute** involved herein; and

That the Agreement **was** violated a<sup>6</sup> indicated in the Opinion.

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Claim sustained.

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

ATTEST: *A. W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 13th day of **December 1974.**