NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22296
THIRD DIVISION Docket Number SG-22128

Rolf Valtin, 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 Transportation Company:

(a) the Southern Pacific Transportation Company (Pacific Lines) violated the agreement between the Carrier and its employes in the Signal Department, represented by the Brotherhood of Railroad Signalmen, effective October 1, 1973, particularly Rule 22.

(b) Mr. R. G. Poulson be reimbursed the amount of $5.49, cost of his dinner on December 20, 1975, account required to work eleven hours on that date and not returned to, his headquarters point within two hours after his regular quitting time." /Carrier file: SIG 108-68/

OPINION OF BOARD: The claimant is a Signal Maintainer at Roseville, California. At the time in question, his regular work schedule was Monday through Friday, 7 AM-3:30 PM, with an 11 AM-11:30 AM meal period. Saturday and Sunday were his regular rest days. Pursuant to a call, he worked on Saturday, December 20, 1975, from 7:45 AM to 7:30 PM. The work which he performed fell inside his maintenance district.

The claimant's expense account for the pay period in question included these two entries:

Date	Location	Reals
12/20	Lincoln	$3.68
12/20	Roseville	$5.49

The Carrier honored the first of these claimed meal allowances, but declined to honor the second one. To be determined is whether the claim for the second meal was a valid one under Rule 22 of the then-currant Agreement. The Rule is titled "Second and Subsequent Meal Periods" and reads as follows:

"Employes shall not be required to work more than ten (10) hours without being permitted to have a second meal period of thirty (30) minutes, and subsequent meal period of thirty (30) minutes shall be allowed approximately each five (5) hours thereafter. Time taken for meals shall not terminate the continuous service period. In the event the second or subsequent meal periods cannot be afforded, compensation will be allowed for au equivalent amount of time, and twenty (20) minutes with pay in which to eat shall be afforded at the first opportunity. An employe not returned to his headquarters point within two hours after his regular quitting time, will be reimbursed by the Company for the cost of the second meal." (Underscoring added.)

Rather than deal with the various subordinate contentions made by one party or the other, we will move directly to the heart of the dispute. It is concededly true that the claimant's situation was such as to have entitled him to a second meal period. On the one hand, he was plainly "required to work more than ten (10) hours", as laid down at the opening of the Rule. And, on the other hand, coverage under the Rule is not made dependent on whether the employe has worked inside or outside his maintenance district. We state this fact because the reference to "returned to his headquarters point" in the Rules's last sentence gives a hint to the contrary. In actuality, however, the reference is not to be read as spelling a delineation between work outside the employe's maintenance district and work inside it. For the conceded fact is that the claimant would have been entitled to the second-meal allowance had he worked the very same stint-- in duration and geography -- on one of his regular work days.

The issue which is raised concerns the proper application of the phrase "after his regular quitting time" in the present Saturday situation. The Organization contends that the phrase must be applied as operative on what would have been a rest day as well as on a regular work day. Thus, as the claimant's "regular quitting time" was 3:30 PM and as he was "not returned to his headquarters point" until 7:30 PM, the Organization submits that the claimant was entitled to the second-meal allowance. Contrarily, the Carrier contends that it is obviously falacious to apply "regular quitting tine" to a day which, because it is not a regular work day to begin with, has no

regular quitting time. Thus, as the 3:30 PM hour on the Saturday was not gwerning and as no other hour on the Saturday can be taken as constituting "his *regular* quitting time", the Carrier submits that the claimant did not qualify for the second-meal allowance under the Rule's last sentence.

We believe that the Carrier's position, despite its technical soundness, leads to a wrongful result and should for that reason be rejected. The result would be that an employe, though he puts in the *sort* of prolonged day regulated by the Rule and though he otherwise in every way qualifies for the Rule's benefits, would not be entitled to the second-weal allowance solely by virtue of the fact that the day on which he put in the work *is* a day which, by its nature, is without a regular quitting time. The result is absurd and there is no evidence which would indicate that it was intended.

We think it is noteworthy that the Carrier, in a prior case involving the gwerning test for the purpose of overtime pay, took a position which is quite the reverse from the position it is here taking. Third Division Award No. 19936 contains the following:

> *"Carrier asserts* that the final portion of the above cited rule requires double time compensation (on a rest day) based upon the employe's regular starting time on work days, i.e., 7:30 a.m., and not 6:30 a.m. - the time that the Claimants herein commenced work on May 30, 1970. To hold otherwise, Carrier suggests, would result in no double time payments on rest days because there is no 'regular work period' on those days..."

The Carrier's position in that case was sustained. We are not persuaded by the Carrier's effort to distinguish what it there said from what it is here saying.

We are not holding that the employs's regular quitting time is governing for the purpose of the second-meal allowance regardless of the hours worked by him on what would have been his rest day. Here, however, the first 8 hours of the Saturday stint were so parallel to the claimant's regular work hours as to make the application of his regular quitting time for the purpose of the second-meal allowance the reasonable and compelling application.

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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as apprwed 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. Brenner
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1979.