

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22506
Docket Number TD-22384

William M. Edgett, Referee

PARTIES TO DISPUTE: (American Train Dispatchers Association
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(Burlington Northern Inc.

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association that:

(a) Burlington Northern Inc. (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, Article 21 thereof in particular, when it refused payment for expenses incurred on June 14, 18 and 19, 1976, as submitted by Claimant F. E. Putnam of the Missoula train dispatching office.

(b) For the above violation, the Carrier should now compensate Claimant Train Dispatcher F. E. Putnam in the amount of \$141.62 for expenses incurred on the above mentioned dates.

OPINION OF BOARD: Claimant was directed to appear for an investigation at some distance from his headquarters. He incurred travel expenses and seeks reimbursement under Rule 21 which reads:

"ARTICLE 21

AWAY FROM HEADQUARTERS.

Each regular assigned dispatcher shall be assigned to established headquarters in accordance with seniority provisions and, when required by the Company to leave such headquarters, shall be paid necessary actual expenses, in addition to compensation provided for in this agreement, while away."

Carrier denies that it was necessary to incur expenses and while that point is well taken in part, it does not dispose of expense which was necessary. Carrier defends against that expense by reliance on the principle of mutuality of interest which has been cited in a number of cases by the Divisions of this Board and by Public Law Boards. Public Law Board 300 interpreted a provision this Organization had entered into with another Carrier which is very close to Article 21.

It held that:

"When Claimant is being called as a principle (SIC) that there is a mutuality of interest and therefore Claimant is not entitled to compensation."

There are a number of awards with the same holding. In fact, the Board has not been cited to a contrary holding. The interpretation has been consistent, and under well settled principles should be followed by this Board unless palpably wrong. The Board cannot say that the principle of mutuality of interest, as it has been applied to the matter of investigation, is palpably wrong. Therefore, it is obliged to apply it here.

Claimant when called as principle to an investigation under the parties' Rule 24 was not entitled to payment of his expenses under Rule 21.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 17th day of September 1979.