

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23309
Docket Number MW-23107

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { (Brotherhood Of Maintenance of Way Employees
{ Seaboard Coast Line 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 Trackman Dewey Edens pay for time expended and mileage expense incurred for carrying out the Carrier's instructions on January 9, 1978 (System File C-4 (17-31-42)-DE/12-36 (78-23) J).

(2) Trackman Dewey Edens be allowed seven (7) hours and forty-nine (49) minutes of pay at his straight-time rate, one and one-half hours of pay at his time and one-half rate and mileage allowance of \$7.84 (56 miles @ 14¢ per mile) because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: The Claimant was regularly assigned as Trackman, 7:30 a.m. until 4:00 p.m., with one-half hour for lunch, Monday through Friday.

On January 6, 1978, the Employee became ill, to the point that he left work to seek medical attention, and he states that he was instructed to report to the hospital for laboratory tests on the next Monday at 7:00 a.m.

At 6:00 a.m. on that Monday (January 9, 1978), the Claimant advised the Foreman of the 7:00 a.m. appointment; stating that he would be late in reporting for work. The Foreman - according to the Employee - stated that the arrangement would be satisfactory. The Claimant reported to work at 8:20 a.m., but he was told that he would have to travel 26 miles to the office of the Roadmaster. The Employee complied, but he was told by the Assistant Roadmaster that the Roadmaster would not be in the office until 5:30 p.m. He remained there until 5:30, at which time he spoke with the Roadmaster. The Employee received no compensation for January 9.

The Employees have cited Rule 19, Section 1:

"Section 1. Employees' time will start and end at a regularly designated assembling point for each class of employees, such as the tool house, camp cars, shop, etc., or for employees whose duties require traveling, at the station in the town where the employee6 lodge and take their meals."

When the Employee reported for duty at 8:20 a.m., he was instructed to report to the Roadmaster, and thus the Organization urges that his time started as of

8:20 and ended when he returned following his conference with the Roadmaster, which results in certain straight time and overtime service, in addition to mileage expense.

Although the record discusses the events of January 6 and 9, the claim presented here speaks only in terms of compensation for January 9.

Initially, we state that in most instances when a Carrier requires an employe to perform certain service or to do an act, the Carrier is obligated to compensate the employe for the time involved. In this case, the Carrier insists that the events leading up to this case may not be viewed in the void, but must be considered in light of this Employe's record. It asserts that this Employe has had a history of leaving work prior to the completion of his day of employment, and thus it was not unreasonable for the Roadmaster to want to know the nature of the illness in order to decide if any further medical attention was necessary by the Company physician.

Further, the Company insists that the Claimant did not seek permission to be off on January 9; but rather, stated to the Foreman that he would be late.

While we do not depart from our stated general rule, this case must be considered based upon its own merits, and we are unable to find that the Carrier was unreasonable in this particular case. Certainly, if the Roadmaster made himself unreasonably unavailable to the point that the Employe suffered a deprivation of wages, the result might be different; and, of course, if the record indicated that the Carrier's action was in the form of a discipline, then other avenues would be available. However, based upon all of the facts and circumstances, we find nothing in the record to suggest to us that the Carrier was unreasonable in this particular case, and under all of the circumstances, we will deny the claim.

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 approved June 21, 1934;

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

Award Number 23309
Docket Number MW-23107

Page 3

That the Agreement ~~was~~ not violated.

A W A R D

~~Claim-denied.~~

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paul
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May 1981.