

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23962
Docket Number SG-23971

Ida Klaus, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company:

(a) Carrier violates the current Signalmen's Agreement particularly Rules 24 and 25.

(b) Carrier should now be required to compensate T. A. Razzano ten hours at the Signalman's rate of pay, a total of \$92.70, for December 17, 1979.

(c) Carrier should also be required to compensate T. A. Razzano \$4.25 noon meal and \$5.95 evening meal, a total of \$10.20 actual expenses incurred December 17, 1979."

(General Chairman file: 24-25 1-80 T. A. Razzano. Carrier file: 15-24(80-2)H)

OPINION OF BOARD: These claims are for compensation for ten hours lost, and for meal expenses incurred, by the Claimant on December 17, 1979, in connection with his attendance at an investigation of charges issued against him.

By notice of December 10, 1979, the Claimant was charged with an infraction committed while assigned to the Jacksonville District and he was directed to report for investigation to that Division. At the time of the investigation, he had been voluntarily reassigned to Fayetteville, North Carolina, - a distance of 460 miles from Jacksonville. The charges against him were subsequently sustained. See Third Division Award 23960.

The claims are brought under Rules 24 and 25 of the Agreement which provide allowances for compensation and reimbursement for expenses to employees in these circumstances:

"Rule 24 - Attending Court

(a) An employee, at the request of management, attending court, inquests, or appearing as witnesses for the railroad

Rule 25 - Expenses

(a) Employees sent away from home station or territory"

The Carrier contends that these rules are inapplicable to an employee who attends an investigation of matters charged against him. It reads Rule 24 as covering only employees who appear as witnesses for the Carrier; and Rule 25, as applicable only to employees performing "service" away from their headquarters point.

The Carrier finds support for its interpretation in consistent NRAB awards and in the fact that over its entire system employees are not paid for attending investigations where they are charged and then adjudged guilty. It notes only one exception, involving a signal employee, which it considers to have been an error.

The Organization relies on the literal language and structure of each of the rules. It contends that the particular words used are clear and unambiguous and are plainly applicable to these claims without regard to how other words in other agreements may have been interpreted. It sees no warrant in the particular language of these rules for drawing a distinction on the basis of the role played by the employee in the investigation or the reason for which he may be sent away from his home station.

After careful review of the entire record and analysis of the arguments made, the Board concludes that the claims must be denied.

This Board does not read the language of the rules in question to be so clear and unambiguous as to preclude reliance on other awards rendered by this Third Division with respect to similar claims made under other agreements. In Award 21320, with Referee John H. Dorsey, we stated:

"In the absence of a specific provision in an agreement that a charged party shall be paid for attendance at a discipline investigation hearing, it is the practice in the railroad industry that the employee is not contractually entitled to pay for time in attendance at the hearing. The confronting Agreement contains no such specific provision; and further, the record before the Board contains no evidence of probative value that on the property here involved payment to a charged party has been historically and customarily paid."

As there is no specific provision in Rules 24 and 25 that a charged party shall be paid for attendance at an investigation, and in the absence of evidence of a practice of doing so on this property, we find that the Carrier acted properly in denying these claims. While we recognize the travel hardship to the Claimant in attending the investigation, we do not find in it any compelling equitable basis for special consideration.

The claim will be denied.

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 not violated.

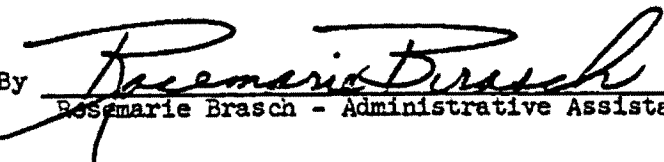
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of August 1982.