NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24373
Docket Number MW-24276

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employes

The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier failed and refused to compensate the claimants for standby service rendered by each on February 11, 12, 13 and 14, 1980 (System File 10-P-422-4/11-1800-60-1).

(2) Each of the claimants listed below now be compensated continuously from 7:00 a.m. February 11, 1980 until 3:30 p.m. February 14, 1980.

J. R. Andrews, Foreman
B. J. Callaway
J. T. Callaway
L. K. Andrews
J. D. Aleshire
B. L. Tolar
G. B. Chatham
Nelson Bynum, Foreman
John Wicke
J. D. Dolojsi
L. C. Roland
E. W. Kelly
J. O. Kelley
A. M. Rodriequez
A. J. Perez, Jr."

OPINION OF BOARD: According to the Employes, they were members of a gang which reported to an emergency job on February 11, 1980 and worked there until February 14. Further, they assert that they were notified by the Foreman after each day of assignment that they "were to remain available and on duty each evening and nite..." in the event emergency required their attention. Nonetheless they were not compensated for time spent at the motel as they waited for possible call.

In the initial denial the Carrier concedes that the Employes were required to remain on February 11 but they were reimbursed for meals and rooms. On February 12, two (2) individuals were permitted to make a trip to obtain clothes and medicine for all of the Employes.

The Carrier asserts that some of the Claimants did not perform work in the area and thus should be excluded from consideration and further it indicates that certain of the Employes had their own vehicles and journeyed home each day so that they should be properly excluded as Claimants. Notwithstanding, the Carrier denies that any Claimants were required to stand by for service and denies that they were advised or instructed what to do on their free time. The Carrier argues that even if the Employes were instructed to remain at the hotel and be available for work there is no rule which would require payment as claimed by the Claimants.

The Board is of the view that if a Carrier requires individuals to remain at a designated place, those individuals are entitled to compensation absent some rule or practice to the contrary.

However, as we review the entire record we feel that the 11th of February is the only night that we can infer an instruction to some Employes that they remain available and not leave the motel. Accordingly we will sustain the claim only to the extent of compensating the Employes for February 11 and only the Employes who were at the motel on that night.

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 or the Railway labor Act, as approved June 21, 1934;

mat this Division or the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of May 1983.