

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Ida Klaus, Referee

Award Number 24645
Docket Number SG-24255

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company, et al.:

(a) Carrier violated the Signalmen's Agreement, particularly Rules 4 (a), 41, and 42 among others, when Mr. J. Smith, Jr. was caused by the Carrier to lose a ten (10) hour work day on June 11, 1980 and was not paid any time for traveling from Macon, Ga., to Mt. Vernon, Ill., while traveling by the direction of management from Brosman Yard, Macon, Ga. to signal gang working at Mt. Vernon, Ill.

lb) Carrier should now be required to compensate J. Smith, Jr. for all time lost on June 11, 1980, of not less than ten (10) hours at his present rate of pay, or pay him for all time traveling on June 11, 1980, because Carrier caused him to miss the work day of June 11, 1980 and because the Agreement was violated.

(c) Carrier also be required to reimburse all travel expense incurred by Mr. J. Smith, Jr. including 570 miles at 18 cents per mile and actual necessary meal expense.

OPINION OF BOARD: The claims are for time lost and travel expenses incurred by the Claimant while returning from a temporary position location to his permanent job site.

The Claimant bid on and was assigned to a Temporary Signalman vacancy created and bulletined as a temporary replacement for a permanent occupant absent due to illness. On the eve of the permanent occupant's return to duty, management notified the Claimant of the need to rejoin his signal gang. He spent the following day in traveling to the gang site.

The claim for expenses is founded on Rule 41 of the Signalmen's Agreement, providing for payment "when employees are sent away from their assigned station". The time lost is sought under Rule 42, providing for payment to employees "traveling by direction of management".

The **Carrier** responds that neither of the cited rules is applicable. It justifies the disallowance of the claims under Rule 12. That Rule states, in relevant part:

"Employees accepting positions in the exercise of their seniority rights will do so without expense to the **Company**, and will not be allowed time for traveling . . ."

The Organization asserts that Rule 12 applies only to expenses and time loss incurred by the Claimant in travel to the temporary position but not to the return from it. The Organization considers that the return trip in this instance **was governed** by Rules 41 and 42.

Upon analysis of the record facts and the rules cited, the Board concludes that the claims cannot be sustained.

The Claimant voluntarily sought and accepted the temporary position in the exercise of his seniority, with knowledge of these fundamental conditions of his assignment: that it existed only for the duration of the permanent incumbent's absence; that it would terminate automatically with the return of the incumbent; that, upon the **termination**, he would again be able to exercise his seniority by returning to his own permanent job. It may therefore reasonably be said that these conditions attached to, and were basic elements of, his acceptance of the temporary position. It would thus appear that Rule 12 precludes payment for the time spent and expenses incurred in the day's travel; implicitly leaving them to be **borne** by the **employee**.

In light of the language and apparent rational intent of Rule 12, the Board cannot accept as reasonable the Organization's reading that the rule applies only to the one-way costs and expenses of reaching the assignment, but not to those incurred in leaving it on the return trip.

Nor do we find support in the facts before us for the contention, as to this particular Claimant, that management "sent him away from his assigned **station**" and he traveled the **return** trip "by direction of **management**". The Claimant's temporary position had automatically ceased to be his "assigned station". The notice of the need to return to his gang was no more than necessary administrative advice of the termination of his assignment and of the opportunity to complete the exercise of his seniority. The Claimant can hardly be viewed as traveling for "company business"; clearly, he made both **trips** essentially for his own benefit. Finally, no significant weight can be given to the bare assertion that **employees** under these circumstances are not forced to leave a position during the middle of the work week.

The claims will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the **whole** record and all the evidence, finds and holds:

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

Claims denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 30th day of January, 1984