

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

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

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railroad Company.

Case No. 1

Claim on behalf of Southern Railway Floating Signalman T. F. Miller, headquarters Macon, Georgia, assigned working hours 8 a.m. to 5 p.m Monday thru Friday, rest days Saturday and Sunday for the following:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 41, when they refused to reimburse Floating Signalman T. F. Miller for his actual necessary lodging expense he incurred while sent away from his home station at Macon, Georgia to work in Tifton, Ga. area during the expense period of June 16, 1984 to July 15, 1984.

(b) Carrier now be required to reimburse Floating Signalman T. F. Miller for an amount equal to the lodging expense he was not reimbursed for or \$68.16 which is the part Carrier refused reimbursement.

(c) Carrier also be required to pay 1 1/2% interest each month the Carrier used the Claimant's money that he was not reimbursed for on his actual necessary lodging expense. (Carrier file: SG-606. General Chairman file: SR-356.)

Case No. 2

Claim on behalf of all employees assigned to Floating Signalman positions on Southern, Lines East and Lines West seniority districts, that are being required to stay in a double occupancy room in order to be reimbursed for their expenses when sent away from their home station for more than one day under Rule 39.

(a) That Carrier is violating Rule 41 of the Signalmen's Agreement when they refuse to reimburse Floating Signalmen for meals and lodging when employee stays in single motel and hotel room.

(b) That Carrier be required to withdraw its instructions to Floating Signalmen to stay in a double occupancy room in order to be reimbursed for actual necessary expense. (General Chairman file: SR-357. Carrier file: SG-607)"

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The basic question in this case is the same as that contained in Third Division Award 27673. However, in this dispute there is a difference. Here, there is a somewhat different Rule and a practice of longer standing has been established.

The claim requests reimbursement for the cost of a single occupancy hotel room when the Floating Signalman is required to stay overnight, away from his home station. The controlling rule is Rule 41 which reads:

"EXPENSES - RULE 41:

Except as provided in Rules 45 and 49, when employees are sent away from their assigned headquarters point on company business, they will be allowed actual necessary expenses. This rule shall not apply to signal maintainers and assistants working on their assigned section or territory, except when sent away from signaled territory; nor to employees assigned to district signal gangs pursuant to Rule 44."

The primary thrust of the Organization's contention is:

- (a) that Rule 41 requires that actual necessary expenses will be allowed;
- (b) that its construction of Rule 41 should be given weight because the parties negotiated Rule 44(b) which reads:

"District Signal Gangs headquartered in hotels and/or motels shall be accommodated (sic) therein throughout their work week, beginning with the night before their assigned work week begins, if required. Lodging facilities shall be arranged and paid for by the Carrier and shall be suitable,

clean, healthful and sanitary, with not more than two employees occupying one twin-bedded room. Any employee who does not intend to use such facilities during regular work period will notify his Foreman as far in advance as possible. Clean-up facilities will be provided for at the place of lodging after the end of the last day of the work week(s)."

Here, it argues that the parties have negotiated a procedure or process (Rule 44(b)) where the Carrier arranged, provided, and paid for the lodging of its District Signal Gang employees. Rule 41, applicable to the Claimants does not contain such provision. The difference being that Claimant, pursuant to Rule 41, must arrange and pay for his own lodging and is then reimbursed. The two rules were re-negotiated at the same time and the parties were unable to agree to put the provisions of Rule 44(b) in Rule 41(c). The past practice is of such long-standing that it provides strong showing of the parties' intent.

The Board has carefully reviewed and considered the total record before us as well as the well-stated contentions of both parties.

Rule 41 speaks in terms of actual necessary expenses. Clearly, the Organization has good grounds for contesting what the Carrier has done, given the many years of past practice. Past practice and acquiescence may serve to resolve ambiguities or uncertainties in contract language. However, in consideration of the nature and the intent of the Rule, and the Rule's language at issue, it cannot be said to be ambiguous. Implicit in the relevant language "actual necessary expenses" is the notion that the Carrier may establish reasonable measures with respect to the control of expenses. This flows from its basic right to regulate and establish reasonable guidelines with respect to matters such as this. Nonetheless, since the Carrier had for some considerable period of time allowed the payment for a single room, it was required to put the employee on notice that its policy was being changed. In the case before this Board, proper notice was provided.

In view of all the foregoing, the claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1989.