

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29665  
Docket No. TD-30109  
93-3-91-3-523

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

(American Train Dispatchers  
Association)  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

- "(A) CSX Transportation, Inc. ("Carrier"), or "CSXT") violated its train dispatchers' basic schedule agreement applicable in the Jacksonville Centralized Train Dispatching Center ("JCTDC") including Article 9 (F) thereof, when it refused to allow Assistant Chief Train Dispatcher D. G. Barker his traveling expenses in connection with being required to leave his established headquarters for the purpose of attending a rules examination on September 12, 1990.
- (B) Because of said violation, the Carrier shall now allow Claimant D. G. Barker travel expenses for 36 miles and the current rate of 26 cents per mile for use of personal automobile."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 waived right of appearance at hearing thereon.

The pivotal issue in this dispute is the meaning of the term "headquarters" as used in the parties' Agreement, which provides

for payment of certain traveling expenses when attendance at a rules examination requires leaving "headquarters." On September 12, 1990, Claimant was required to attend a rules examination administered at the Park Suites Hotel in Jacksonville, Florida. The hotel is 18 miles from the Carrier's Jacksonville Centralized Train Dispatching Center (JCTDC) where Claimant normally reported for work.

The Organization contends that "headquarters" means a specific point, in this case the JCTDC. In support of its contention, the Organization produced two statements from another Train Dispatcher who was paid mileage and other expenses in connection with his attendance at legal depositions held in the City of Jacksonville, but away from the JCTDC, on October 9, 1990, and January 23 and 24, 1991.

Carrier contends that "headquarters" means a geographical area in this dispute and includes the entire City of Jacksonville. In its view, since the rules examination did not take Claimant outside of Jacksonville, he was not required to leave his "headquarters" and is not, therefore, entitled to expenses.

Carrier counters the written statements submitted by the other Train Dispatcher by saying, in one instance, that a couple of isolated payments do not establish a binding precedent. In support of its position in this regard Carrier cites Third Division Awards 23943 and 25870 as well as Fourth Division Award 3939. More importantly, the Carrier says the payments were made and/or authorized by the Senior Claims Agent who, obviously, is not authorized to interpret the Agreement. Accordingly, it says no precedent should arise from his actions. Carrier relies on First Division Award 15485; Second Division Awards 10257, 9049, 8726, 8329, and 3782; Third Division Awards 21857, 21130, 20337, 20323, and 18064; and Fourth Division Award 3939 for support of its contentions on this point.

In addition, Carrier provided copies of a job bulletin and a seniority roster which both show Jacksonville, and not the JCTDC, as the location. It also asserted, without significant opposition by the Organization, that over 200 Train Dispatchers attended the examination, yet only Claimant and one other Train Dispatcher claimed mileage. In its view, these facts show that the term "headquarters" is understood to encompass the City of Jacksonville.

The Organization acknowledged that only two out of more than 200 examinees claimed mileage, but it asserted there were many reasons why claims were not filed in this instance. It did not, however, provide any examples of the claimed reasons.

The record before us makes the interpretation of the term "headquarters" a difficult analytical challenge. Based on the normal meaning of the term "headquarters," both parties' positions are plausible. Third Division Awards 20740 and 21582, as well as Fourth Division Award 3939, have accepted an "area" interpretation of the term. On the other hand, Third Division Award 19739 defines "headquarters" as the "...point at which an employee reports for service and is relieved from service." While none of them involve the instant parties, Awards 21582 and 19739 involved the former Baltimore and Ohio Railroad and the Chesapeake and Ohio Railway Company, respectively (both CSX component roads).

We agree with cited Awards that isolated instances do not, in and of themselves, establish a binding precedent. In addition, the available evidence indicates that the factual situations underlying the previous payments made and/or authorized by the Senior Claims Agent are distinguishable from the one here involved. Hence, said payments shed no light on the disposition of the instant claim. In any event, as the Awards cited by the Carrier illustrate, this Board has consistently ruled that payments by subordinate officials without the knowledge or final approval of the highest designated officer authorized to make and interpret the Agreement are not binding.

Furthermore, we have Carrier's evidence, in the form of the job bulletin and the seniority roster, which reflects Jacksonville as an area-wide concept of "headquarters." In addition, we have the un rebutted assertion that only two out of more than 200 Dispatchers claimed mileage expenses. We find this to be substantial evidence in opposition to the Organization's Claim.

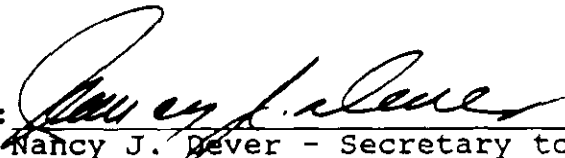
In disputes of this nature, it is well settled that the Organization has the burden of proving, by submission of probative evidence, that the Carrier has violated the Agreement. On the record before us, we find that the Organization has not satisfied this burden. Accordingly, the Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 7th day of June, 1993.