

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31083  
Docket No. MW-30854  
95-3-92-3-671

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(CSX Transportation, Inc. (former  
( Louisville and Nashville Railroad Company -  
( former Monon Railroad)

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

- (1) The Agreement was violated when the Carrier required employes of T&S Gang 5K81 to adopt various work sites and sidings, instead of that specified in Rule 24, as their regularly designated assembling point at the start and close of each workday, beginning April 3, 1991 and ending on May 24, 1991 [Carrier's File 12(91-1253) MNN].
- (2) As a consequence of the aforesaid violation, the Claimants listed below\* shall each be allowed one (1) hours' pay for each workday, beginning April 3, 1991 and ending on May 24, 1991, at their respective time and one-half rates of pay.

*R. A. Dehahn	C. D. Shirley
G. L. Hill	W. J. Rubadue
W. J. Tyson	T. P. Slesman
R. D. Miller	D. Deardurff
J. W. Phipps	J. Wilson
A. S. Karushis	A. J. Eaton
S. L. Hudedleston	J. K. Watson
W. E. Lock	L. K. Woodrum
R. L. Jones	P. T. Barnes
C. R. Lovely	J. M. Swartz
B. J. Williams	G. E. Boman
S. Stone	B. K. Keaton
E. R. Idle"	

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 employee 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.

This claim arose when the Claimants, who were assigned to T&S Gang 5K81, began their designated work at Dyer, Indiana, on April 3, 1991, without an assembling point and without washroom, toilet or security facilities at the site. In addition, the Organization took the position that the Claimants had to travel 30 to 45 minutes between the work site and the motel in which they were housed and should be paid for that time.

The Carrier denied the claim contending that because Gang 5K81 was a "floating" gang, different headquarters could not be established for the same gang. The Carrier argues that it was forced to use the closest Carrier facility which would provide enough parking for the entire force. For those employees who could not drive to the different work sites, bus service would be provided. However the Claimants would not be paid.

The Organization appealed the claim, but again it was denied.

This case began when the Carrier informed the General Chairman that it was no longer going to use camp cars for Gangs and that the employees, who were required to seek lodging away from their homes during the workweek, would be lodged in motels. There would be two or more motels which would be involved in lodging the employees in the gang. The employees in the T&S gang were given no assembling point prior to beginning work each day. Since they did not have a designated assembling point, they were required to travel 30 to 45 minutes each morning and again at the end of the day to and from their motel. The Carrier failed to pay the Claimants for the time between the assembling point and the work site and therefore, the claim was filed in this case.

Rule 24 states:

"Employee's time will start and end at a regularly designated assembling point which will be the toolhouse, boarding cars, shop or at stations where employees take their meals or lodging."

In addition, Rule 38 requires payment for travel time for employees who are required to live away from their home during the workweek. Rule 38(b)(1) provides that the Carrier shall designate a headquarters point for each position and the Carrier will compensate the employees for the travel time that they are required to travel on a daily basis as service for the Carrier.

Since Rule 24 provides that an employee's time will start and end at a regularly designated assembling point, and since the Carrier did not designate an assembling point, Claimants are entitled to pay for the time from their lodging site until their arrival at the actual work site.

Consequently, this Board finds that the Carrier violated the Agreement when it failed to allow the Claimants a designated assembling point in accordance with Rule 24, and the Claimants are entitled to be compensated for the entire travel time prior to and following their daily work period.

With respect to the time and one-half request set forth in the claim, this Board finds that there is no provision in the Agreement providing for payment at the overtime rate. Rule 38 provides for payment for travel time at the straight time rate. The Organization has not set forth any convincing arguments that it is entitled to the premium pay in this situation. Therefore, the claim will be sustained only in part, and the Claimants will be awarded one hour straight time pay for the period April 3 through May 24, 1991.

#### AWARD

Claim sustained in accordance with the Findings.

#### ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

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NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.