

CORRECTED

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31665
Docket No. MW-31213
96-3-93-3-202**

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company
((former Missouri Pacific Railroad)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed and refused to reimburse District Welder Helper C. L. Bohannon for mileage expenses incurred while using his personal automobile in connection with the changing of work locations on the Arkansas Division as submitted to the Carrier under date of November 25, 1991 (Carrier's File 920150 MPR).
- (2) As a consequence of the violation referred to in Part (1) above, the Claimant shall be allowed a mileage expense of ninety dollars and thirty cents (\$90.30)."

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.

At the time of the claim, the Claimant was assigned as a welder helper in a "on-line" or mobile gang without a fixed headquarter. The Carrier provided transportation when the gang changed its headquarters point. However, the Claimant elected to drive his personal vehicle when the headquarters were moved. The gang changed headquartered points seven times between April 12 and November 18, 1991. On January 4, 1992, Claimant filed a claim for the mileage allowance for all changes in headquarters.

The Carrier argues that the claim was not timely filed in accordance with Rule 12 Section 2(a) which reads:

"All claims or grievances must be presented in writing by or on behalf of the employe involved to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based."

The Organization argues that the time limit did not start until the claim for mileage was denied by the Engineering Superintendent.

If the Board is to accept the Organization's position then it would allow the employees to file for expenses at any time. One purpose of the time limit Rules is that it gives the Carrier a chance to investigate the circumstances of the claim while the facts are still relatively fresh. Accordingly the Board finds that all of the claims for mileage except for the November 18, 1991 date were not timely filed and will not be considered by this Board.

As to the remaining claim the Organization has the burden to prove the Agreement has been violated. It cites Rule 21 to support its position. The portion of the rule cited reads as follows:

"RULE 21
TRAVEL TIME -- BUNK CARS OR TRAILERS:

* * * *

Section I, (c) Award of Arbitration Board No. 298 Eff. 10-15-67

C. ***

2. An employee who is not furnished means of transportation by the railroad company from one work point to another and who uses other forms of transportation for this purpose shall be reimbursed for the cost of such other transportation. If he uses his personal automobile for this purpose in the absence of transportation furnished by the railroad company he shall be reimbursed for such use of his automobile at the rate of nine cents a mile. If an employee's work point is changed during his absence from the work point on a rest day or holiday this paragraph shall apply to any mileage he is required to travel to the new work point in excess of that required to return to the former work point."

The facts in case reveal that the Carrier did provide transportation when the headquarter points were changed. The Organization has failed to meet its burden.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of August 1996.