

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34086
Docket No. SG-34867
00-3-98-3-578**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Elgin, Joliet and Eastern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Elgin, Joliet & Eastern Railway Company (EJ&E):

Claim on behalf of D. D. Moser for payment of \$255.09, account Carrier violated the current Signalmen’s Agreement, particularly Rule 72, when it did not reimburse the Claimant for the expense of using his personal vehicle during April, May, June and July of 1997. Carrier’s File No. 144-312. General Chairman’s File No. 97-75-EJE. BRS File Case No. 10750-EJE.”

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 were given due notice of hearing thereon.

This is a contract interpretation claim involving milage reimbursement expense by the Claimant for the use of his personal vehicle. There is no dispute that on various

dates from March through July 1997, the Claimant utilized his personal vehicle to get to designated locations. In most cases, the Claimant was called out for overtime and in order to obtain a company vehicle with appropriate equipment, he had to leave his home and drive to set locations. At the end of the performance of his responsibilities, the Claimant had to return the company vehicle and then drive home. Regardless of whether he was on overtime or directed by the Carrier to see a company doctor, he was doing so “while being on the clock” and “under the direction of the company.” The Organization argues herein that the Carrier violated Rule 72. The Organization argues that the Claimant was called out for overtime and is to be paid by the Carrier from the time he is called until he returns home. The Claimant is required to drive his own vehicle to the Carrier’s headquarters and this is a clearly paid expense under Rule 72.

The Carrier maintains that Rule 72 does not have applicability to the Claimant’s actions. The Rule has not been interpreted by practice to reimburse an employee for the use of his personal vehicle to get to a company location to obtain a Company truck with special tools and equipment to perform his overtime service. The Carrier denied the claim as lacking practice and language support.

The Rule in dispute dealing with mileage for the use of a private vehicle, states in full that:

“(b) Employees who at the direction of the Carrier use their privately owned automobiles will be compensated twelve cents (12¢) per mile regardless of the number of miles traveled.”

The question at bar is twofold. How has the Rule been interpreted and applied previously? What does the Rule language state?

By letter dated November 24, 1997, the Carrier stated that “The carrier has never allowed mileage expense for employees who drive from home to their headquarter point to get a company vehicle for an overtime call.” This is not refuted by the Organization and stands as fact. Additionally, and in answer to the second question, there is nothing in the language of the Rule that compensation is related to pay status. The Rule does not say that because the employee is under pay as he drives to his headquarters point that the private automobile he is using fits under the Rule. The language relates to employees “who at the direction of the Carrier. . . .” There is nothing in this record that the Carrier directed the employee to use his privately owned

vehicle for work. The Carrier directed him to work overtime. Certainly he had to get to his headquarters point to begin work. Nothing in the language of the Rule provides such compensation when, as here, the Claimant was not directed to use his personal vehicle for Carrier service. Different language would be necessary for that conclusion. The claim must be denied.

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 25th day of May, 2000.