

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36843
Docket No. SG-36495
04-3-00-3-724

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Union Pacific Railroad Company (former Missouri
(Pacific Railroad)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad (former Missouri Pacific):

Claim on behalf of E. L. Mitchell for payment of \$175.50 in expenses, account Carrier violated the current Signalmen's Agreement, particularly Rules 5 (c) and 7 of the Ancillary Mobile Signal Gang Agreement when it failed to reimburse the Claimant for Noon meal expenses incurred during the months of August, September and October of 1999. Carrier's File No. 1213005. General Chairman's File No. 99-49-M-A. BRS File Case No. 11401-MP.”

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.

The Claimant in this matter was at all material times assigned to a Mobile Signal Gang working in Little Rock, Arkansas. During this period, he lived in Jacksonville, Arkansas, which is a suburb of Little Rock approximately 19 miles from that site. Each night he returned to his home, but submitted a claim for reimbursement for noon meal expenses. When the Carrier failed to reimburse him for those expenses the instant claim arose.

The Organization relies on Appendix H-1, Section 5(c) of the Mobile Signal Gang Agreement which provides that employees on "mobile gangs" will be allowed "actual necessary meal expenses." Thus, according to the Organization, because the Claimant was a member of a mobile gang he was entitled to reimbursement whether or not he stayed away from his home as a result of his work on that gang.

Section 5(c) clearly requires that the meal expenses must be "actual." However, there is no record evidence that either the Claimant or the Organization ever provided any receipts or other documentation of the meal expenses and we cannot determine whether the Claimant's meal expenses were "actual." Thus, the claim must fail for lack of proof. Prior decisions of the Board, including some on this same property, have so held. See e.g., Third Division Awards 36632, 36607, 33650, 27967, 27039, and 26458.

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 28th day of January 2004.