

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37440
Docket No. SG-37970
05-3-03-3-392

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

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

STATEMENT OF CLAIM:

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

Claim on behalf of M. Kiraly, for \$122.87, account Carrier violated the current Signalmen’s Agreement, particularly Rules 12, 50 and 76, when it refused to compensate the Claimant for his mileage and travel time incurred on June 18, 2002, and June 20, 2002. Carrier’s File No. 1331872. General Chairman’s File No. W-12-189. BRS File Case No. 12584-UP.”

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 fact situation in this case is clear and not really disputed. The Claimant was a regularly assigned member of Signal Gang No. 2666. On June 17, 2002, the first day of the work cycle of Gang No. 2666, the regular members of the gang (excluding the Claimant) reported at the bulletined headquarters location. Following their work briefing, the gang was transported to the work location where they were programmed to perform service for their work cycle. At the conclusion of their work cycle on June 20, 2002, the gang was transported back to their headquarters location.

On June 17, 2002, the Claimant was off duty observing a paid personal leave day. On June 18, 2002, following the Claimant's personal leave day and the second work day of the gang, he reported for duty at the work location to which the gang had been transported on June 17. At the end of the work cycle on June 20, the Claimant returned to the headquarters location of the gang. The Claimant used his personal vehicle for these two trips. The claim as outlined in the Statement of Claim, supra, was presented on his behalf seeking compensation for using his personal vehicle. The claim alleged violations of Rules 12, 50 and 76 of the Agreement.

RULE 12 - TIME BEGINS AND ENDS specifically provides that an employee's time will begin and end at a point designated by bulletin.

RULE 50 - BULLETINS clearly delineates the information which will be included in the bulletin advertising a position.

RULE 76 - VEHICLE OPERATOR'S LICENSE - FEES reads as follows:

- "A. An employee holding or securing a position, the duties of which require him to operate an over-the-highway motor vehicle, will secure and maintain such commercial vehicle operator's license or permit as required in the state or states in which he operates such vehicle. He will be given a period of thirty (30) calendar days from the date of assignment to secure such license or permit. Such employees will be reimbursed the cost of the license or permit by the company.

- B. When an employee, holding or securing a position which requires him to operate an over-the-highway vehicle fails to secure the required license or permit or is deprived of such license or permit after securing them, he will be permitted to exercise a displacement right in accordance with Rule 58.
- C. Employees assigned to operate trucks and other over-the-highway vehicles will not be required to operate such vehicle unless such vehicle is properly maintained and is in safe operating condition."

In the ex-parte Submission to the Board, the Organization states:

"As a matter of correction, reference to 'Rule 76' throughout the handling of this case on the property should actually be 'Rule 75.'"

RULE 75 - PRIVATE AUTOMOBILES reads as follows:

"When employees are requested and are willing to use private automobiles for Company-use, an allowance will be made at the established automobile mileage allowance paid by the Company to its employees."

The thrust of the Organization's argument in this case appears to be centered on the contention that because the Claimant was not available at the beginning of the work period of the gang because he was taking personal leave day, he was somehow entitled to a mileage allowance and additional travel time when he reported for service on the second day of the gang's work period at the location where the gang had been transported to on the first day of their work period. He also seeks mileage and travel time allowances at the end of the gang's work period.

The Board finds no Agreement language or other support for the claimed mileage allowance or travel time. The gang reported at its bulletined headquarters at the beginning of its work period. The gang was transported by the Carrier to the work location for the work period. The gang was transported by the Carrier back to its bulletined headquarters at the end of its work period. At no time was the

bulletined headquarters of the gang changed. The Rules cited by the Organization lend no support to its contentions.

There is no evidence or convincing argument in the record to support the contention that the Claimant was either "requested" or "required" to use his personal vehicle on either of the dates claimed. Therefore, even if we accept the Organization's argument relative to Rule 75 rather than Rule 76, there is no evidence to suggest that Rule 75 was violated in any manner.

In short, the Organization failed to meet its required burden of proof that a violation of the Agreement occurred. Therefore, the claim as presented is 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 22nd day of March, 2005.