****CORRECTED****

Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37637
Docket No. SG-38108
05-3-03-3-539

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(The Kansas City Southern Railway

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern:

Claim on behalf of T. N. McBroom, for $471.23, account Carrier violated the current Signalmen's Agreement, particularly Rule 58 (Traveling From One Work Point To Another), when on November 1, 15 and 27, 2002, the Claimant used his personal vehicle, in the absence of company furnished transportation, to travel from one work point to another and then Carrier refused to reimburse him for the miles he traveled for each move. Carrier's File No. K06035675. General Chairman's File No. 03-007-KCS-185. BRS File Case No. 12748-KCS."

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.

In the fall of 2002, when this dispute arose, the Claimant was assigned to Signal Gang 890. He worked Monday through Friday with Saturday and Sunday as his rest days. Signal Gang 890 traveled to different locations on the property based on work requirements.

Between October 21 and November 1, 2002, the Claimant was headquartered at Jefferson, Texas. On Friday, November 1, 2002, the Claimant was advised that his headquarters (work point) was changed from Jefferson, Texas, to Blue Springs, Missouri, a distance of 555 miles. On Monday, November 4, 2002, the Claimant reported to Blue Springs, Missouri, after his two rest days. The Carrier did not transport the Claimant to his new work point. Rather, he used his personal vehicle.

The Claimant was entitled to be reimbursement for using his private vehicle because the Carrier did not furnish transportation to Blue Springs, Missouri. He claimed 555 miles at the Carrier's authorized automobile mileage allowance. This is the mileage between Jefferson, Texas, and Blue Springs, Missouri. The Carrier compensated him for 426 miles, the difference in mileage the Claimant was required to travel to his new work point (Blue Springs) and the mileage to his old work point (Jefferson).

The Claimant was headquartered at Blue Springs through Friday, November 15, 2002, when he was advised that his headquarters was changed to Sulphur Springs, Texas, a distance of 559 miles. Again, the Carrier did not furnish him transportation to Sulphur Springs, his new work location. On Monday, November 25, 2002, the Claimant used his personal vehicle to travel to Sulphur Springs, Texas. He claimed 559 miles, the distance between his old work point (Blue Springs) and his new work point (Sulphur Springs). Inasmuch as the distance between the Claimant's residence and Sulphur Springs (132 miles) was less than the distance to Blue Springs (436 miles) he was not given any mileage allowance.

On November 26 and 27, 2002, the Claimant was headquartered at Mansfield, Louisiana. On Wednesday, November 27, he was advised that his work point was changed to DeQueen, Arkansas, a distance of 177 miles. After the Thanksgiving holiday and his rest days, the Claimant reported to DeQueen, Arkansas, on Monday, December 2, 2002, as instructed. Because the Carrier did not furnish the Claimant transportation to his new work point, he used his personal vehicle. He claimed 177

miles, the distance between his former work point (Mansfield) and his new work point (DeQueen). Inasmuch as the distance between the Claimant's residence and DeQueen (11 miles) was less than the distance from his residence to Mansfield (178 miles) he was not allowed any mileage allowance for the use of his private vehicle to travel to DeQueen, his new work point.

On December 31, 2002, the Organization filed a claim on behalf of the Claimant for $471.23, which it contends is the difference between the automobile allowance the Claimant is entitled to pursuant to Rule 58 of the Agreement between the parties and the automobile allowance that the Carrier approved for his travel to his new work locations on November 4, November 25 and December 2, 2002.

The Carrier denied the claim contending that in accordance with Rule 58(b) the Claimant was properly reimbursed for all travel to his new work points in excess of the travel that would have been required had he returned to his former work point.

Rule 58, relied on by both parties, provides as follows:

"TRAVELING FROM ONE WORK POINT TO ANOTHER

(a) Time spent in traveling from one work point to another (during regular assigned hours, outside of regularly assigned hours or on a rest day or holiday) shall be paid for at the straight time rate.

(b) 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 Carrier authorized automobile mileage allowance. 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." (Emphasis added.)

The Claimant's change of work points at the end of his workweek on November 1, November 15 and November 27, 2002 do not fall squarely within a literal reading of Rule 58(b). For instance, arguably the language of Rule 58(b) relied on by the Organization in support of the claim is inapplicable to the Claimant because he did not travel "from one work point to another." Rather, he was released from duty at one location, was off work on his rest days and the Thanksgiving holiday, and then traveled to his new work location at the beginning of the following workweek. On the other hand, it can be argued that the last sentence of Rule 58(b) relied on by the Carrier was inapposite to the Claimant because he was notified of the three changes in his work points while he was still at the work point.

Because a literal application of Rule 58(b) will not resolve the issue before the Board, it is necessary to read Rule 58 in its entirety to ascertain what Arbitration Board No. 298 intended when it crafted this contractual provision 35 years ago.

In our judgment, Rule 58 was intended to compensate an employee the additional cost he or she incurs when required to travel to a new work point after his or her rest days or holidays when the new work point is farther from his or her residence than the former work point. That an employee was advised of the change in his or her work points at the end of the workweek cannot alter the intent of Rule 58.

When interpreting ambiguous contract provisions, a construction that would lead to an unreasonable result should be avoided, if possible. The Organization's application of Rule 58(b) would lead to an unreasonable result, in the Board's opinion. The Claimant is seeking an automobile mileage allowance for 559 miles on November 25, 2002, although he traveled only 123 miles. For December 2, 2002, he requested an automobile mileage allowance for 177 miles although he commuted only 11 miles. Such a windfall was not the intent of Rule 58(b) in our view.

The Organization's application of Rule 58(b) would penalize the Carrier for giving employees the courtesy of notifying them of a change in their work point for the following workweek before they were released at the end of the workweek for their rest days or holidays. The Carrier could have waited until after the Claimant had departed the work point to begin his rest days and Thanksgiving holiday before notifying him of his new work point. If it had done that, the Organization agrees that the Claimant would not be entitled to the additional mileage that he claimed for November 4 and 25, as well as December 2, 2002.

The Organization argues that Third Division Award 31505 is analogous to the dispute before the Board, but we respectfully disagree. In Award 31505, the signal employee used his personal vehicle to drive directly from his fixed headquarters on seven consecutive days then returned to his fixed headquarters after performing service outside of his fixed headquarters. We agree with Award 31505 that the signal employee there was entitled to be reimbursed for his mileage. However, those circumstances are patently distinguishable from the instant case because the Claimant in the case before us did not use his personal vehicle to travel directly from one work point to another.

For all the foregoing reasons, we find that the Claimant is not entitled to the travel mileage that he claimed and the claim is denied as a result.

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 19th day of October 2005.