

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37714
Docket No. SG-37916
06-3-03-3-322

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

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

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of T. N. McBroom, for \$72.27 for mileage incurred, account Carrier violated the current Signalmen’s Agreement, particularly Rule 58, when on April 12, 2002, it directed the Claimant to change his headquarters point from Siloam Springs, Arkansas, to DeQueen, Arkansas, a distance of 198 miles. The Claimant was required during the workday to use his personal vehicle for the change because the company did not provide transportation, and then Carrier refused to pay for the mileage. Carrier’s File No. K06025626. General Chairman’s File No. 02-060-KCS-185. BRS File Case No. 12576-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.

As background, the Claimant was assigned as a Signaller headquartered at Siloam Springs, Arkansas. The Organization argues that while assigned at Siloam Springs, the Claimant was given orders that following his off days of Friday, Saturday, and Sunday, April 12, 13, and 14, 2002, he was to fill a vacation absence at DeQueen, Arkansas, beginning Monday, April 15, 2002. The change of work point was given while the Claimant was at Siloam Springs, and not on his off days. The Carrier provided no transportation. The Organization alleges that the Carrier violated Rule 58(b) in that the distance from Siloam Springs, Arkansas, to his new headquarters point of DeQueen, Arkansas, was 198 miles. The Carrier refused proper compensation in violation of the Rule.

The Carrier denied compensation based on Rule 58. It stated that the Claimant resided in Gillham, Arkansas. From his residence in Gillham to his former headquarters point of Siloam Springs was 187 miles. From his residence in Gillham, Arkansas, to his new headquarters point of DeQueen was only 11 miles. Because the Rule requires payment for excess mileage and there was no excess mileage, no payment was due for a mileage allowance to the Claimant. It argues that its action was in full compliance with the Agreement.

This is a contract interpretation of the language in Rule 58. That Rule states in pertinent part:

“Rule 58 – TRAVELING FROM ONE WORK POINT TO ANOTHER

- (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 point in excess of that required to report to the former work point."

For the Organization to prevail, it must prove that the language should be considered as argued. It must demonstrate that it has been applied in the manner now argued by practice, or some basis to conclude that this interpretation has validity. On the basis of this record, we can find no support for this conclusion. We make this determination after careful consideration of the facts. They are similar to those previously considered in Third Division Award 37712 and considered by Third Division Award 37551. For all of those reasons the claim 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 30th day of January 2006.