

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37723
Docket No. SG-36908
06-3-01-3-476

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

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

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:

Claim on behalf of J. C. Hernandez, J. Garza, and J. C. Franks for payment of \$297.00 each. Account Carrier violated the current Signalmen's Agreement, particularly Rules 36 and 58, when on June 7 and 8, 2000 Carrier required the Claimants to travel from El Paso to Houston, Texas in their personal automobiles and then failed to compensate them for doing so. Carrier's File No. 1240502. General Chairman's File No. S-36-045. BRS File Case No. 11710-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 operative facts underlying this claim are not in dispute. The Claimants were working on Gang 2126. Their positions were abolished on May 29, 2000. They exercised their seniority to displace onto a mobile gang that was governed by Rule 36 for certain expense reimbursements. They gave proper notification of their intention to displace onto Zone Gang 2637 that was working in El Paso, Texas. The record establishes that the Claimants drove their personal automobiles from Houston to El Paso to report for work on Zone Gang 2637 on June 7, 2000. They each claim entitlement to a \$297.00 mileage expense reimbursement per Rule 36 – TRAVELING GANG WORK, which reads, in pertinent part, as follows:

“Zone gang employees will be reimbursed for actual and necessary expenses (lodging and meals). Employees will receive \$15.00 incidental expense allowance per day worked. Employees will receive \$9.00 for every twenty five (25) miles traveled from home to work at the beginning and end of each work period. The Carrier will give employees notice of work schedules and locations, except in emergency circumstances, so they can plan their travel.” (Emphasis added)

The Organization contends that the Rule requires reimbursement for the mileage claimed under the operative circumstances.

The Carrier disputes the Organization’s interpretation of Rule 36. In addition, it cited the content of other Rules in support of its position. First, the Carrier maintains that Rule 36 applies only to members of Zone Gangs. Until the Claimants physically assumed their intended displacements, they were not members of Zone Gang 2637. Accordingly, they were not entitled to the mileage benefit until they completed their exercise of seniority by their physical presence in El Paso to report for work. The Carrier pointed out that the Claimants’ displacement date of June 7, 2000 did not coincide with either the beginning or end of a “work period” within the meaning of Rule 36. According to the Carrier, this language provided further support for its position that travel in connection with an exercise of seniority displacement is not covered by Rule 36.

The Carrier cited Rule 54 in support of its overall position. The Rule reads:

"Employees accepting positions in the exercise of their seniority rights will do so without causing expense to the railroad."

The record does not establish where the precise beginning and end of the work period fell, only that June 7 was somewhere in-between the end points, we find the circumstances support the Carrier's position.

Given the foregoing discussion, we find that the Organization has not sustained its burden to prove that the applicable Rule language required the Carrier to pay the instant claim as stated. Accordingly, 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 23rd day of February 2006.