

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37895
Docket No. SG-36764
06-3-01-3-303

The Third Division consisted of the regular members and in addition Referee James E. Conway 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 Railroad Company:

Claim on behalf of F. C. Correll, J. L. Eshelman and C. P. Frederick for payment of \$56.87 each. Account Carrier violated the current Signalmen's Agreement, particularly Rules 36 and 75, when on March 16, 2000 Carrier failed to compensate the Claimant for use of their personal automobiles from Sterling, Colorado to Torrington, Wyoming in connection with the relocation of their gang. Carrier's File No. 1230566. General Chairman's File No. N36 75-061. BRS File Case No. 11639-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.

According to the record before the Board, the Claimants were all members of Mobile Signal Gang 2686 for whom the Carrier normally provided transportation in Company vehicles as they moved from location to location. On March 16, 2000, the gang's work took them from Sterling, Colorado, to Torrington, Wyoming, a distance of 175 miles. All three Claimants drove their personal vehicles and subsequently submitted expense reports claiming \$56.87 representing reimbursement for 175 miles at \$.0325 per mile traveled. The Carrier rejected the claims, asserting that the Claimants' cars were moved during a work period; that Zone Gangs are paid between home and their work site at the beginning and end of each work period; and that because it did not ask the Claimants to drive their own vehicles, the issue is governed by Rule 36 of the Agreement, which does not require reimbursement for auto usage under those circumstances. The Organization took appeal, relying on the terms of Rule 75 - PRIVATE AUTOMOBILES:

"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."

Rule 36 – TRAVELING GANG WORK reads, in relevant 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 location, except in emergency circumstances, so they can plan their travel."

Following submission of the claim, the Organization requested and on July 5, 2000, received from the Carrier's Labor Relations unit a formal interpretation of Rule 36. Brutally summarized, it stated that the intent of the Rule was that mobile gang employees would get themselves to work on their own time by whatever means

they chose. If they used their personal vehicles, they could thereafter drive to the next location, but were not required to do so. According to this communication, the negotiated intent, which was the product of extensive discussions, was that employees could, if they liked, take cheaper modes of transportation and pocket the difference in expense allowances, but the basic responsibility and expense of getting to work at the beginning of a work period rested with the employee. The memo further explained that in this connection the Carrier had agreed to return employees who drove their personal vehicles to them on company time prior to the next move.

The Carrier's explanation of the intent of the Rule 36 provisions was never challenged or rebutted in claim handling on the property. Accordingly, it stands as accepted fact and dictates the outcome of this dispute.

Based upon the established intent of Rule 36, 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 22nd day of August 2006.