

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 39032
Docket No. MW-37828
08-3-NRAB-00003-030200
(03-3-200)

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed and refused to properly compensate Messrs. M. Portmess and R. Portmess for their service in connection with reporting from Cumberland, Maryland to Buffalo, New York to assist in snow removal on December 29, 2001 through January 3, 2002 and returning to Cumberland, Maryland [System File A05236002/12(02-0232) CSX].
- (2) As a consequence of the violation referred to in Part (1) above, Claimants M. Portmess and R. Portmess shall now each be compensated ‘. . . for sixty-six hours and one-half (66:30) overtime hours, sixteen (16) hours holiday pay, plus mileage from Cumberland, MD to Buffalo, NY and return. . . .’”

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 instant claim challenges the means by which the Claimants were paid for their time and expenses in connection with their participation in snow removal work. It is undisputed that both Claimants were on furlough status at all times relevant to the claim. Because of heavy snow in the Buffalo, New York, area, they were contacted by a Carrier clerical employee to inquire if they were willing to travel to Buffalo to assist in the storm recovery efforts there. There was some further discussion with a Carrier official if they were willing to participate. They drove from their homes in Cumberland, Maryland, worked no more than 16 hours per day on December 30 and 31, 2001 and January 1 and 2, 2002 and then were released to return home. They were provided rest periods of at least five hours after arrival, eight hours between work sessions, and at least five hours before returning to their homes.

After careful review of this unique record, it is clear that the furloughed Claimants were offered the opportunity to volunteer for the recovery effort. They were under the impression that they would be compensated around the clock from the time they departed their homes until they returned days later together with mileage and related expenses. Unfortunately, their impression is not supported by either the facts established by the record or the Agreement Rules applicable to those facts. To the contrary, the record establishes that they were properly paid in accordance with the Agreement. The claim, therefore, must be denied.

AWARD

Claim denied.

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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 April 2008.