

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41176
Docket No. CL-39783
11-3-NRAB-00003-060629**

The Third Division consisted of the regular members and in addition Referee Steven M. Bierig when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)**

STATEMENT OF CLAIM:

“Claim of the General Committee that (GL-13161):

- (1) The Carrier violated Rule 17 and other related rules of the Clerical Agreement, when on January 8, 2002 through January 10, 2002, they required Claimant, Ms. Linda Scotti to travel from her headquarters to perform temporary company service in Lorton, VA. and subsequently failed to properly compensate her for her time spent traveling. Claimant was required to travel by train from her headquarters in Sanford, FL. to Lorton, VA. to attend a company administered class. The Carrier then failed or refused to accurately compensate Claimant for all her hours spent traveling onboard the train (including waiting time).**
- (2) The Carrier shall be immediately required to compensate Claimant at the Auto Train Representative pro rate of \$18.58 per hour for a total of thirty-five (35) hours. This is the total number of hours that Claimant spent traveling on the train (including waiting time) for the above mentioned dates.”**

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 facts of the instant case do not appear to be in dispute. Claimant L. Scotti worked her regular eight-hour assignment on January 8, 2002 at Sanford, Florida. At the close of business, in order to attend a training class, the Claimant traveled on northbound Train No. 52 for 18 hours and arrived in Lorton, Virginia, on January 9, 2002. The Claimant attended the training class in Lorton on January 9 and January 10, 2002. At the conclusion of the training class on January 10, the Claimant traveled for 17 hours on southbound Train No. 53 and returned to Sanford, where she worked her regular eight-hour shift on January 11, 2002. While the Claimant was reimbursed for meal and lodging expenses, her claim for time spent traveling was denied, leading to the instant claim.

As noted in the Statement of Claim before the Board, the Organization relied upon Rule 17 to support its claim. Rule 17 provides, in relevant part, as follows:

“(a) Employees required to travel to an outside point at the direction of the company to attend court or appear as a witness at investigations or hearings, and employees who are required to travel from their headquarters to an outside point to perform temporary company service (other than relief assignments or vacancies), shall be compensated in accordance with the following provisions:

(1) Time spent in traveling (including waiting time) from one work location to another work location in excess of one hour will be paid for at the pro rata rate. . . .”

Conversely, the Carrier contended that Rule 32 governs the disposition of this claim. It reads, in relevant part, as follows:

“When employees require additional training to remain qualified for positions to which currently assigned, they may be assigned to classroom or on-the-job training at such times and places as necessary. Employees will be paid at the pro rata rate for classroom or on-the-job training not to exceed eight hours pay per day. If it is necessary to change the rest days or working hours of employees in order to provide this training, the carrier may do so and no overtime shall be paid as long as two rest days are allowed in a seven-day period commencing with the first day of training.”

The Organization contends that the Carrier violated Rule 17 when it did not compensate the Claimant for her travel time in order to attend the training session in Lorton, Virginia. According to the Organization, the training that the Claimant was required to attend constituted “service” to the Carrier and as such, the Carrier is required to compensate the Claimant for her travel time. The Organization thoroughly rejected the contention by the Carrier that there is no need to compensate the Claimant for travel time because such travel was in furtherance of training rather than “service.” As a remedy, the Organization requests that the Claimant be compensated for the 35 hours of round-trip travel time expended to attend the training class in Lorton.

Conversely, the Carrier contends that it acted properly in not compensating the Claimant for her travel time to and from the training class in Lorton. According to the Carrier, because such travel was in furtherance of training and did not constitute “service” to the Carrier, the governing Rule at issue is Rule 32, which does not provide for the compensation of travel time for training. The Carrier contends that the burden is on the Organization to prove that the Carrier violated the Agreement. According to the Carrier, the Organization has not been able to meet its burden. The Carrier asserts that it acted appropriately when it did not

compensate the Claimant for her travel time and requests that the claim be denied in its entirety.

The crux of this matter is whether the issue before the Board is governed by Rule 17, as the Organization alleges, or whether it is governed by Rule 32, as the Carrier alleges.

Rule 17 deals specifically with attendance in court, appearance as a witness at investigations or hearings, and required travel from headquarters to an outlying point to perform temporary company "service." After an exhaustive review of the record evidence, as well as the precedent and positions of the parties, the Board concludes that the Organization failed to meet its burden of proof. The Board reaffirms that the burden is on the Organization to prove that the Carrier violated the parties' Agreement when it failed to pay the Claimant for her travel time. The Board realizes the importance of the instant case to both parties and gave it its proper consideration. For the record, the Board met on four separate occasions during which the Carrier and Labor Members strenuously argued their respective positions regarding the cited Rules as they relate to the facts and circumstance of this particular case.

Our comprehensive review of the language of Rules 17 and 32 leads to the inescapable conclusion that Rule 32 is the controlling Rule in this case. Whereas Rule 32 specifically deals with the issue of training, Rule 17 is restricted to court appearances, witness appearances at investigations and hearings and temporary company "service." Because the instant matter involves training, as opposed to "service," the matter is governed by Rule 32, not Rule 17. The parties negotiated both Rules 17 and 32. The skillful negotiators chose not to include compensation for travel time to attend training sessions. If the parties had agreed to compensate employees for time spent traveling to training sessions, they could have easily said so. However, there is no indication of such intent in the record before the Board.

The Board further notes that the Organization relied upon on-property Third Division Awards rendered with Referee Fred Blackwell participating. See Awards 31949 and 31950 ("... The Claimants who traveled to the training site were paid travel time and mileage. . . .") While it appears that travel time was paid for in the Awards rendered by Referee Blackwell, it does not appear that this

type of payment was required by Rule 32. In this vein, the Board notes that the Awards rendered by Referee Blackwell did not directly deal with the question of whether compensated travel time to attend training classes was required by Rule 32. Stated differently, although the Awards stated that the employees had been paid, they did not specifically deal with the issue of whether the employees were required to be paid for travel time pursuant to Rule 32.

Therefore, after a complete and thorough review of all relevant record evidence, the Board finds that the Organization failed to meet its burden of proof. Rule 32, not Rule 17, governs the instant situation. In the final analysis, the Board cannot find that Rule 32 entitles an employee to be compensated for travel time to attend training sessions. Therefore, 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 21st day of December 2011.