

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41633
Docket No. SG-41749
13-3-NRAB-00003-110371

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
(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 M. A. Toal, for \$261.00 in mileage reimbursement, account Carrier violated Agreement Rules 36 and 80 when it did not compensate the Claimant for traveling from his home to work in Shelby, IL. Carrier's File No. 1537751. General Chairman's File No. S-36,80-1075. BRS File Case No. 14604-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.

In the facts of this case, the Claimant left his home and traveled to the common lodging facility for Gang 2694. His drive from his home in Dallas, Texas, to Shelby, Illinois, on May 18, 2010 was not approved by the Carrier for travel allowance. The

Organization asserts that the Carrier violated Rule 36 of the Agreement in that the Claimant's travel to work on the Zone Gang entitled him to "receive \$9.00 for every twenty five (25) miles traveled from home to work" The Claimant traveled from home to work and was due a travel allowance from his residence to Gang 2694 at the beginning of his work cycle. The Organization and the Carrier dispute the applicability of Award support and the cited Rules.

The instant claim is on all fours with the same facts and arguments that the Board reviewed in Third Division Awards 41631 and 41632. As in those Awards, the Board found facts that documented a displacement and bump had occurred. Because the Claimant was displacing onto the gang, he was not a member of the gang and was not at the beginning of his work cycle. The Board found that the travel did not constitute travel to be reimbursed pursuant to Rule 36. Rule 58 specified that, "A displacement is not effective until the employee is physically displaced." As the Board stated in Award 41631, "The Claimant did not begin work, was not assigned, and was not governed by Rule 36 travel allowance while he drove from his home to the work location."

As the Board reviews the full set of facts and circumstances of the instant case, we conclude that the very same facts and Agreement Rules were analyzed and interpreted by our prior Awards 41631 and 41632. Notably, our findings are consistent with past Awards (Public Law Board No. 6459, Award 8; Third Division Award 39659). Accordingly, the Board is barred, under the doctrine of res judicata, from adjudicating the issue again. This claim must, therefore, be dismissed.

AWARD

Claim dismissed.

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 24th day of April 2013.