

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Lloyd K. Garrison, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

ERIE RAILROAD COMPANY

(C. E. Denney and John A. Hadden, Trustees)

STATEMENT OF CLAIM: "That positions in camp car outfits are not properly bulletined on the Delaware and Susquehanna Divisions and violate Rules 9 and 52 and other rules of the Signal Department Employees' Agreement, effective November 1, 1935. It is claimed by the employees that the bulletin should mention which camp the men should be stationed in and they should work only from that camp."

STATEMENT OF FACTS: The following is set forth as the joint statement of facts of the parties:

"Rule 9: An employee's time will begin and end at a designated point, but more than one such point may be named within a specified territory, such as terminal territory."

"Rule 14: Boarding cars will be the home station as referred to in these rules for employees assigned to such cars."

"Rule 52: Bulletin—Advertising Position

Place
Date File
Bulletin No.

TO EMPLOYEES CONCERNED:

The following position is hereby advertised for bids in accordance with the Signal Department Employees' agreement. Applications should be sent to the undersigned, where they will be received up to 12 o'clock Noon,..... (Date.)

Title of Position
Home Station
Rate of Pay
Hours of Service
Permanent or Temporary
(Signed)
(Title)

"Ordinarily there are two or more camps used on the seniority district comprised by the Delaware and Susquehanna Divisions under the jurisdiction of Signal Supervisor Champlin, positions in which are bulletined as per sample quoted on next page:

1. It is not sustained by the rules.
2. Recognized customs and practices under the rules are in accord with the practice against which Mr. Anderson has protested.
3. Rules 9 and 52 cited by the employees in support of this protest have not been violated."

There is in existence an agreement between the parties bearing effective date of November 1, 1935.

OPINION OF BOARD: The question is as to the meaning of Rule 14:

"Boarding cars will be the home station as referred to in these rules for employees assigned to such cars."

The meaning contended for by the employees would necessitate reading the rule substantially as follows:

"The boarding cars of the particular outfit to which a man is assigned will be the home station." etc.

The meaning contended for by the carrier would necessitate reading the rule substantially as follows:

"The boarding cars in a division will be the home station," etc.

Either interpretation might be given to the words "boarding cars" in the rule. What light does the balance of the rule throw on the correct interpretation?

The boarding cars will be:

"the home station as referred to in these rules. . . ."

What is the meaning of that phrase? Elsewhere in the rules, wherever "home station" is used, its normal meaning is that of some specific geographical location. But that cannot be its meaning in Rule 14, since boarding cars have no fixed location and may go anywhere on a division. Moreover, boarding cars are pretty much alike; the men buy their own food and share the expenses; the accommodations are regularized by Rule 58; and the cars may be here today and there tomorrow. For these reasons it would seem possible to construe "home station" in Rule 14 as meaning either a particular outfit of boarding cars, or the boarding cars on the division generally.

Thus far neither the interpretation desired by the carriers nor that desired by the employees can be derived with certainty from the language of Rule 14.

But Rule 14 must be read in connection with the other rules referring to "home station." These are Rules 13, 16(d) (perhaps), 22, and 52. They will be considered in order.

Rule 13 provides in substance that the time of employees called for work after their regular hours:

" . . . will start when they report and end at the time they return to designated point at home station." (underscoring added)

This rule must be read in conjunction with Rule 9:

"An employe's time will begin and end at a designated point, but more than one such point may be named within a specified territory, such as terminal territory."

Thus an employe must have a designated point (and sometimes more than one), and also a home station. The two are not normally the same.

How would Rule 13 apply to employees on boarding cars if they were called to work after regular hours? Presumably their "designated point" would be their particular boarding car outfit. Their "home station" would also be that outfit, if the employees' interpretation of Rule 14 is followed; in other words, the designated point and the home station would be co-extensive. though Rule 13 evidently contemplates that the designated point would normally be a point somewhere within the boundaries of a home station. If the carrier's interpretation of Rule 14 is followed, the designated point would presumably be the particular boarding car outfit, while the home station would be the boarding cars as a whole on the division.

It cannot be said that Rule 13 necessitates the one interpretation of Rule 14 any more than it necessitates the other.

We turn next to Rule 16(d). This rule provides that:

"When the requirements make the purchase of meals and lodging necessary while away from home location, employees" (regularly assigned to perform road work) "will be paid actual necessary expenses only when not returning to home location daily."

We do not pass upon the question whether the words "home location" here mean the same thing as "home station." The employees contend that they do, and therefore contend that, since in their view the home station is a particular boarding car outfit, a man temporarily sent from that outfit to work with another, and not returning daily, would be entitled to his expenses for meals and lodging. But if that were the result, it would be an unnatural one, for, as has been stated, employees on all boarding cars are provided with their lodgings by the carrier and share the expenses of their own food, so that a man going from one outfit to another would normally incur no additional expense for which he should be compensated. Hence, if "home location" in Rule 16(d) means the same thing as "home station," and if "home station" means a particular boarding car outfit, rather than boarding cars generally, the result would be one which the parties can hardly have contemplated when they agreed upon Rule 16(d).

We turn next to Rule 22. This provides that employees attending court, etc., will, among other things, be paid their expenses "while away from home station or headquarters." It is evident that either interpretation of what constitutes the home station of boarding car employees would fit Rule 22.

Rule 52 simply prescribes the form of bulletins advertising positions, and contains a space entitled "Home Station." It sheds no light on what is meant by that phrase.

We conclude that the meaning of Rule 14 is ambiguous and uncertain and cannot be derived with assurance either from its own language or from the other rules. In these circumstances it is both proper and necessary to turn to the practices of the parties as indicating how they themselves have interpreted the rule. The record sufficiently indicates that over a great many years employees have been assigned to "boarding cars" as their "home station," the bulletins not specifying particular outfits; and that men so assigned have been shifted from one outfit to another as the work necessitated, without any claims for expenses or protests until the present claim arose. Instances were shown by the employees of a few bulletins which designated a particular boarding car gang by number, but it appears from the record that in those instances the gang was the only one on the division.

Under all the circumstances we conclude that the past practice has been sufficient to give to Rule 14 an interpretation contrary to that here contended for by the claimant.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the rules have not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 21st day of July, 1939.