

Award No. 921

Docket No. MW-947

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

MISSOURI AND ARKANSAS RAILWAY COMPANY

STATEMENT OF CLAIM: "That the following employees are entitled to pro rata pay, as provided in Rule 1, Article VII, Maintenance of Way Agreement between the Missouri & Arkansas Railway and the Brotherhood of Maintenance of Way Employees; Agreement last revised March 10, 1938: While waiting at Rondo, Ark., from 4:00 P. M. until 12:00 midnight, November 15, 1938, for the arrival of their outfit cars.

Old Sterling	B. & B. Foreman
R. E. Mullinox	B. & B. Mechanic
Victor Burgess	B. & B. Mechanic
J. D. Baker	B. & B. Mechanic
W. H. Cross	B. & B. Mechanic
T. J. Baker	B. & B. Mechanic
Virgil Sterling	B. & B. Helper
Ray Akers	B. & B. Helper
Roland Andrews	B. & B. Helper
Fred Shinaberry	B. & B. Helper"

JOINT STATEMENT OF FACTS: "November 15, 1938, the employees named in the Statement of Claim, were instructed by the supervisory officers to take their motor car at work time on that date and leave Georgetown, Arkansas, where their outfit cars were located, and work through to Rondo, Arkansas, a distance of forty-nine miles. The Foreman also had instructions to bill his outfit cars to move on freight train No. 211, leaving Georgetown at 10:35 A. M. and due to arrive at Rondo at 2:55 P. M. The employees complied with these instructions and arrived at Rondo, Arkansas, at 4:00 P. M., which was the end of their regular assigned day's work. The train moving this outfit from Georgetown, Arkansas, to Rondo, Arkansas, was delayed and did not arrive at Rondo until 12:00 midnight (causing the employees to wait at Rondo away from their outfit cars eight hours after completing their day's work, at the end of their assigned hours, which was 4:00 P. M.)."

POSITION OF EMPLOYEES: "The employees named in the Statement of Claim were required to leave their assigned outfit cars at their regular assigned working hour on November 15, 1938, the outfit cars then being located at Georgetown, Arkansas. The employees traveled on their motor car and performed service throughout the day during their assigned hours at various locations between Georgetown, Arkansas and Rondo, Arkansas, a distance of approximately forty-nine miles, arriving at Rondo, Arkansas at 4:00 P. M., which was the end of their assigned hours.

"The management had ordered the outfit cars to move from Georgetown, Arkansas to Rondo, Arkansas, on train No. 211, which is due to leave

"Carrier respectfully submits to your Honorable Board that Article VII should be considered in its entirety in event any portion is applicable to case in question, and upon the application of rule 1, the second rule should also apply. Inasmuch as the employes elected to await arrival of outfit sleeping accommodations in preference to securing lodging at Rondo, the claim for eight hours 'waiting time' should be disallowed."

OPINION OF BOARD: Rule 1, Article VII provides for actual time for traveling or waiting at pro rata rate. The employes were waiting in this instance and should be paid under that rule.

FINDINGS: The Third Division of the Adjustment Board upon the whole record and all the evidence, finds and holds:

That the carrier and employes involved in this dispute, are respectively carrier and employes 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;

That the parties to said dispute waived right of appearance at hearing thereon; and

That the employes are entitled to time waiting in accord with rule.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 31st day of July, 1939.