

Award No. 2048

Docket No. MW-2131

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, BURLINGTON & QUINCY RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that H. M. King, Welder, be paid eight hours at pro rata rate under Rule 48 (a) for Sunday, April 20, 1941, while enroute with outfit cars from Rock Island, Illinois to East Dubuque, Illinois.

EMPLOYES' STATEMENT OF FACTS: Mr. H. M. King, Welder, was instructed by the Carrier to move his outfit cars from Rock Island, Illinois to East Dubuque, Illinois, to perform work at that point. The outfit cars left Rock Island, Illinois for Barstow at 6:15 P. M. on Train No. 64, arriving at Barstow at 8:45 P. M. April 19, 1941. The outfit cars left Barstow some time during the night and arrived at Savanna, Illinois on Train No. 81 at 4:42 A. M. April 20, 1941. Welder King, and his outfit cars were held at Savanna, Illinois all day Sunday, April 20. April 21 the outfit cars were placed in the local freight train, which departed at 6:30 A. M. for East Dubuque, Illinois.

The agreement in effect between the Carrier and the Brotherhood of Maintenance of Way Employees is, by reference, made a part of this Statement of Facts.

POSITION OF EMPLOYES: The Employees quote the following rule from current agreement in support of their position:

"Rule 48. (a) Employees required by the Management to travel on or off their assigned territory in outfit cars will be allowed straight time traveling during regular working hours, and for Sundays and holidays during hours established for work periods on other days."

As stated in the Employees' statement of facts, Welder King was instructed to bill his outfit cars to East Dubuque, Illinois.

See Employees' Exhibit "A"—namely, E. T. Brown's letter of April 12, 1942, with General Superintendent's notation at bottom bearing initials "S. L. F."

Mr. King carried these instructions as far as it was possible for him to do so by billing the outfit cars to East Dubuque, Illinois and remaining with his outfit cars in order to be available for work the following Monday morning. He (King) was not responsible for conditions which would not permit the movement of his outfit cars from Savanna to East Dubuque, Illinois on Sunday, April 20, 1941. Since there was no local freight service from Savanna to East Dubuque on Sunday, the Carrier had one alternative, they could have placed the outfit cars on Train No. 81 instead of switching the outfit cars out of Train No. 81 on arrival at Savanna.

In summation, it is the Carrier's position that:

1. Rule 48 (a) is applicable in the circumstances and provides for payment for time traveling only.
2. The claimant did no traveling during the period involved in the claim; he was under no responsibility; he knew how long he would remain at the point in question which insured his freedom of action.
3. There is no reference anywhere in the schedule agreement to "time in transit," as referred to by the organization.
4. The language of Rule 48 (a) as distinguished from the language of Rule 48 (b) shows clearly the intent of the parties to the agreement not to pay for time waiting in the first instance and to pay for such time in the second.
5. The circumstances that here obtain are those, beyond any question of doubt, under which it was intended in making Rule 48 (a), that payment for waiting time would not accrue.

OPINION OF BOARD: The parties to this dispute are in accord that the circumstances bring the claim under the provisions of Rule 48 (a), covering travel time in outfit cars, which rule will be controlling to a decision. There is in this case evidence of travel in outfit cars and exercise of responsibility by the claimant, H. M. King, during the period for which claim is made.

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 employe involved in this dispute are respectively carrier and employe 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 there is in this case evidence of travel in outfit cars and exercise of responsibility by the claimant, H. M. King, during the period for which claim is made.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 7th day of December, 1942.