# Award No. 9986
# Docket No. SG-9485

## NATIONAL RAILROAD ADJUSTMENT BOARD

## THIRD DIVISION

Harold M. Weston, Referee

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## PARTIES TO DISPUTE:

## BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

## CLINCHFIELD RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Clinchfield Railroad that:

Signal Maintainer Harry B. Sykes be reimbursed for actual necessary expenses incurred on March 5, 7, 12, 13, 14, 19, 20, 22, 23, 29, April 2, 4, 5, 6, 9, 10, 12, 16, 17, 19, 24, and 25, 1956, while away from his regularly assigned home station at Fremont, Virginia, on company business.

EMPLOYE'S STATEMENT OF FACTS: The claimant, Harry B. Sykes, is the regular assigned Signal Maintainer on this Carrier's Signal Section No. 1, with territorial limits extending from Mile Post 0 to Mile Post 22.9, including this Carrier's Fremont Branch, with regular assigned home station at Fremont, Va. The signal maintenance position now held by the claimant is a permanent position in the meaning and intent of the Signalmen's Agreement. The claimant secured the position by virtue of his seniority and was awarded the position by a regular awarding bulletin.

While away from his home station on Company business during his regularly assigned working hours on each of the dates embraced in this claim, it was necessary for the claimant to purchase his noon meals. As was customary and in accordance with past instruction, at the end of each of the months embraced in this claim, the claimant filed itemized expense accounts on this Carrier's Form G. 14 7-53, listing actual expenses for noon meals and submitted to the Carrier for reimbursement. Listed on the same Form, the claimant also included his car mileage which he accrued during his assigned working hours on Company business.

Upon receipt of the claimant's itemized expense account submitted for the month of March, 1956, Engineer Signals and Communications, M. L. Mannion, advised the claimant by a letter dated April 5, 1956:

"Attached hereto is your expense account for month ending March 31.

You will note that I have not approved this statement. My reasons are:

Employes, it is evident that no such intent or understanding as that now advanced by the Employes existed when the agreement was made effective on July 1, 1950.

The rule intended then, as it does now, that an employe assigned to a plant would regard that plant as his home station and that employe assigned to a territory would regard the territory as his home station.

Throughout the life of the agreement the rule has been so interpreted and applied. The practice thereunder has now assumed the proportions of agreement. It cannot now be lightly brushed aside.

A somewhat similar case was before the Third Division in Docket SG-1316, involving this same organization, and though the rule is not identical to Rule 26, the rule there in effect covered much the same requirement as our Rules 21 and 26. The Division, with Referee Ernest M. Tipton in Award No. 1253, held the claim to be without merit.

A more recent and almost identical claim was before the Third Division in Docket SG-6469, involving this same organization. The rule in that case provided:

> "Employes sent away from home station or territory will be reimbursed," etc.

In its opinion denying the claim, the Board with Referee Emmett Ferguson, in Award 6404, said, in part:

> "The common sense meaning of the rule must be accepted as controlling. A narrow application of the word or would result in a perversion of what the parties obviously intended. We interpret the rule to mean in these circumstances that employes not away from their home territory cannot claim reimbursement for their noonday meal expenses. The rule not having been violated, the claim must be denied."

The Employes know that Rule 26 was written for but one purpose and that was to provide for the payment of actual necessary expenses of employes taken away from their assignments.

It has always been so construed and applied. This employe has been so reimbursed. We, therefore, submit that the agreement has not been violated—that this claim is wholly without merit, and we respectfully request this Board to so find.

Carrier has included in this submission all relevant, argumentative facts and evidence with respect to this claim, all of which have heretofore been presented to the Employes.

(EXHIBITS NOT REPRODUCED.)

**OPINION OF BOARD:** The question before us is whether or not Claimant is entitled to reimbursement for his noonday meal expenses while working in his assigned territory but outside the town of Fremont where he is regularly headquartered.

The controlling provision of the Agreement is Rule 26 which reads as follows:

> "Actual necessary expenses will be allowed employes while away from home station when on company business."

It is clear that the expenses in question were "actual," "necessary" and incurred while Claimant was engaged in "company business." However, Carrier insists that Claimant was not away from his "home station" at the critical times and that "home station" is synonymous with the assigned territory.

Neither the language of the Agreement nor the absence of similar claims is helpful in defining the intent of the contracting parties in regard to the meaning of "home station" as used in Rule 26. On the other hand, we find no controlling significance in the written instructions issued to the membership in July 1950, a few weeks after the applicable Agreement became effective, by Mr. Gregg, the Brotherhood's Vice President who participated in the negotiations. These instructions, which are emphasized by Petitioner, fully support its position but are manifestly self-serving and no obligation on the Carrier's part to correct them or agreement, express or implied, can be spelled out, although copies of the instructions were sent by Mr. Gregg in July 1950 to Carrier's Chief Engineer and Engineer Signals and Communications.

What does make Carrier's position difficult is the statement by one of its supervisors, Mr. Mannion, the Engineer Signals and Communications, that "home station and headquarters can be in the same town but headquarters means the point where you begin and end your day's work, while home station is the town where you live and generally sleep." This statement is a matter of record, having been made in a letter of May 11, 1956, rejecting the claim. While not on all fours with Petitioner's contention here, it nevertheless does lend strong support to the argument that "home station" is not coextensive with the assigned territory.

Considering the record in its entirety, particularly in the light of Mr. Mannion's statement, we are satisfied that the claim should be sustained. Cf. Award 1674. In our opinion, neither the rules nor past practice require a contrary result. Awards 6404 and 1253, which are particularly emphasized by Carrier, are not in point since the controlling rules and records in those cases differ substantially from those now before us.

**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 the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1961.