Award No. 10923
Docket No. SG-10547

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE PENNSYLVANIA RAILROAD COMPANY

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

(a) The Carrier violated the current Signalmen's Agreement, particularly Article 2, Section 8(d), when it did not allow Signalman L. S. Kress expenses for meals during the months of August, September, and October, 1957, while he was performing service at Urbana, Ohio, away from his assigned established headquarters.

(b) The Carrier now allow Signalman L. S. Kress expenses for meals, as submitted on Form A.D. 7154, for the period 8-16-56 to 9-7-56, inclusive, totaling $39.20, and also for the period 10-1-56 to 10-12-56, inclusive, as submitted on Form A.D. 7154, totaling $26.30. [Carrier's System Docket No. 30—Region Buckeye Case Z-12.]

EMPLOYES' STATEMENT OF FACTS: Mr. L. S. Kress is regularly assigned to a position of Signalman with assigned headquarters Camp Cars. During the period of this claim, the Camp Cars were located at Cambridge City, Indiana. Commencing August 16, 1956, Signalman Kress was assigned by the Carrier to fill a vacation relief vacancy in the Maintainer T&S class at Urbana, Ohio. Signalman Kress filled the vacancy at Urbana, Ohio, from August 16, 1956, through September 7, 1956, inclusive, and from October 1, 1956, through October 12, 1956, inclusive.

The vacancy to which Signalman Kress was assigned at Urbana, Ohio, was approximately 88 miles from his established headquarters at Camp Cars located at Cambridge City, Indiana, and did not permit his leaving from and returning to his regular assigned Camp Car headquarters daily. Accordingly, under the provisions of the current Signalmen's Agreement (Article 2, Section 8(d)), he was entitled to reimbursement for actual expenses for meals and lodging while away from his regular assigned Camp Car headquarters.

Signalman Kress submitted an expense account for meals in the amount of $39.20 covering the period of August 16, 1956, to September 7, 1956, inclusive, to Mr. S. J. King, Supervisor C. & S. The claim for expenses was denied by Supervisor King. The claim was then turned over to Local Chairman T. J.

said Agreement, which constitutes the applicable Agreement between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the Employes in this case would require the Board to disregard the Agreement between the parties hereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

CONCLUSION

The Carrier has shown that its action in refusing to pay anything more than actual and reasonable out-of-pocket expenses incurred by Claimant is in accordance with the provisions of the applicable Agreement and many well reasoned Awards, and that the Claimant is not entitled to the expenses which he claims.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employes in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Claimant, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter, and the establishment of a record of all of the same.

All data contained herein have been presented to the employe involved or to his duly authorized representative.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant L. S. Kress, a regularly assigned Signalman with assigned headquarters, Camp Cars, turned in expense vouchers for meals while he was working a temporary assignment at Urbana, Ohio, his home, and his Camp Cars were headquartered at Cambridge City, Indiana, 88 miles from Urbana. Carrier refused to honor the expenses submitted by the Claimant stating they were not "actual expenses" within the meaning of the Rule.

There is no dispute between the parties as to what the controlling Rule we are presently involved with is, namely Article 2, Section (d), the pertinent part of which is, as follows:

> "An hourly rated employe performing service which does not permit him to leave and return to his headquarters the same day shall be reimbursed for actual expenses for meals and lodging while away from headquarters."

Carrier refused to honor the expenses submitted by the Claimant asserting they were not "actual expenses" as provided for in the Rule. It is contended by the Carrier that Claimant ate most of his meals at his own home while stationed at Urbana, temporarily, and that this is not reflected in the

statement of expenses submitted to Carrier. Carrier suggested to Claimant that if he would submit a list of expenses which indicated an actual cash outlay for meals required by the Claimant that Carrier would reimburse him for them (his actual expenses).

It is the position of the Claimant that in compliance with the Rule employes may procure their meals at any place and in any manner they desire and that the Carrier is obligated to reimburse them for their actual expenses for such meals, that the place where the meals are consumed or the place where the expenses are incurred is immaterial.

There are denial awards where the facts are quite similar to those appearing in the instant case but the Rules involved are somewhat different. By way of example we find the following language contained in similar rules — "Actual **necessary** expenses" or "actual **additional necessary** expenses" whereas under Article 2, Section 8 (d) of the Agreement involved here we find nothing qualifying the term "actual expenses" as in those Rules. There is nothing in the language in Section 8(d) which is ambiguous and this Board has no right to substitute its own interpretation of the Rule inconsistently with the clear statement contained in the Rule.

We do have a right to assume, however, that the sole purpose of the Rule is to protect the employe against a monetary loss when he is assigned away from his established headquarters. Under the Rule the mere fact he is working away from his established headquarters entitles an employe to actual expenses for meals he has eaten whether at home or elsewhere. This, however, does not give him the right to eat meals at home and submit to the Carrier expenses for the cost of meals that he might have eaten elsewhere. "Actual" means just what it says — true, real or genuine, it does not mean virtual, factitious nor estimated expenses. It does not mean what the employe thinks he is entitled to — he is entitled, only, to the actual cost of the meals wherever they have been eaten.

Carrier was well within its rights in requesting Claimant to submit corrected or amended statements of expense. It had a right to have full knowledge of all of the facts so it could fairly decide just what it was required to reimburse Claimant for by way of "actual expenses". This could not be done because of the general nature of the expenses submitted by Claimant. No one could tell from the submission, for instance, just what meals he ate at home and which ones he ate away from home. The Carrier is entitled to protect itself against unreasonable and unwarranted expense claims which do not accurately reflect the "actual expenses" incurred.

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

That the parties waived oral hearing;

That the Carrier and the 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.

AWARD

The Claim is remanded to the property to be adjusted between the parties in accordance with this Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1962.