

Award No. 11916
Docket No. MW-11035

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement when it required Assistant Steel Bridge Foreman Kenneth J. McCall and Steel Bridge Workers Robert A. McCall, John P. O'Leary, Emil T. Wagner and Eugene DeFrang to leave their regularly assigned headquarters and perform temporary service at Milwaukee, Wisconsin during the periods from November 11 through November 15 and November 25 through December 3, 1957 and failed and refused to allow these employees payment for all time consumed in traveling and reimbursement for meal expenses incurred while so assigned.

(2) The Claimants named in Part (1) hereof be allowed pay at their respective straight time rates for the number of hours consumed in traveling and reimbursement for meal expenses incurred while assigned to perform the temporary service referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: The Claimants, Assistant Steel Bridge Foreman Kenneth J. McCall and Steel Bridge Workers Robert A. McCall, John P. O'Leary, Emil L. Wagner and Eugene DeFrang were regularly assigned as such, with headquarters in outfit cars, located at Leaf River, Illinois, under the supervision of Steel Bridge Foreman F. T. Wilson.

On or about November 7, 1957, the Claimant Assistant Foreman received a message from the Carrier directing him to select three members of Foreman Wilson's crew and to go to Milwaukee, Wisconsin and perform temporary service at that location beginning on Monday, November 11, 1957.

In compliance therewith, the Assistant Foreman selected Claimants Robert A. McCall, John P. O'Leary and Eugene DeFrang to assist in the performance of the above referred to temporary service. They departed for Milwaukee on Sunday night, November 10, via passenger train, arriving at the outfit car

For these reasons it is the position of the Carrier that the claim for reimbursement of meal expenses incurred is without merit and should be denied.

As to the claim for travel time: The only travel time that was claimed and not allowed was for travel on the night of November 10-11, 1957 as shown in the Carrier's Statement of Facts.

The payment of the travel time as made, by the Assistant Chief Engineer Structures was not a requirement under schedule rule 26 and 8(c), because of the circumstances under which the claimants received this service, i.e., an exercise of seniority. The mentioned Carrier officer felt, however, that he would give these employes such additional consideration even though it was not required by the rules. Attention is directed to that portion of Rule 8(c) reading "* * * with the understanding they will not be paid for time lost nor for time consumed traveling to and from such position". Attention is also directed to Rule 26(b) which is the portion of the travel time rule under which this claim was made:

"(b) Employes not with outfit cars will be allowed straight time for actual time waiting, or traveling by train or other conveyance, by direction of the Management during or outside of the regular work period or during overtime hours, either on or off assigned territory. Employes will not be allowed time while traveling in the exercise of seniority rights or between their homes and designated points or for other personal reasons."

In view of the provisions of the rules just mentioned and where this travel resulted from an exercise of seniority under Rule 8(c) the claim for travel time is also without merit and should be denied.

All basic data contained herein has been made known to the employes.

(Exhibits not reproduced.)

OPINION OF BOARD: Five members of a Steel Bridge Crew were sent by Carrier from Leaf River, Illinois, the regularly assigned headquarters, to Milwaukee, Wisconsin to perform temporary work. They left Leaf River on Sunday night, November 10th by passenger train and arrived at Milwaukee at 1:00 A.M. on November 11th. Here they were provided with an outfit car which served for sleeping accommodations and which furnished kitchen facilities and equipment. They worked for the period November 11th through November 15th. They returned to Leaf River and again on Sunday night November 24th they departed for Milwaukee where they arrived at the outfit car on Monday, November 25th at 1:00 A.M. They worked a second period from November 25th through December 3rd and then returned to Leaf River. These employes claim compensation for travel time to and from the bases of operations and reimbursement for meal expenditures.

Petitioners assert that the work they performed at Milwaukee at Carrier's request did not constitute a breach in their status as regularly assigned employes at Leaf River. They rely on Rule 25(b) to sustain their claim for travel pay and upon Rule 28 for reimbursements for costs of meals.

Carrier counters with the arguments that Claimants occupied temporarily new positions at Milwaukee not related to the work at Leaf River, and that

the outfit car they furnished was adequate and proper for the new headquarters. It, therefore asserts payment of expenses is not required under the agreement of the parties.

The basic question to be determined is which location constituted the regular headquarters. From examination of the record we are of the opinion that Claimants did not request the temporary work at Milwaukee in the sense that they bid or volunteered for it. They were requested to take the assignment. They did not accept new positions, and the record does not show that their regular positions were abolished. They were sent to Milwaukee for a few days, sent back to the home base for an interval, and then they returned to Milwaukee for another short period. We find that these service periods at Milwaukee did not constitute a new assignment nor establish a new crew. This temporary work did not have the effect of changing their headquarters. Since their home base continued to be at Leaf River, Illinois, Carrier had the obligation under Rule 26(b) to pay for travel time and under Rule 28 to allow for meal expenses. We note from the record that Carrier did make some recompense to some Claimants for time consumed for travel. We hold that Carrier violated the agreement of the parties; and, therefore, we uphold claims of petitioners for payment for time used in traveling and reimbursement for meal expenses.

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 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 26th day of November 1963.