

Award No. 12832

Docket No. MW-12474

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
GULF, MOBILE AND OHIO RAILROAD COMPANY**

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

(1) The Carrier violated the effective Agreement when it failed and refused to reimburse Bridge and Building employes J. T. Cooksey, R. V. Coleman and J. A. Melton for noon day meal expenses incurred while away from their assigned headquarters on November 4, 5, 6, 9, 10 and 12, 1959.

(2) Claimant J. T. Cooksey now be reimbursed in the amount of \$6.00; and Claimant R. V. Coleman in the amount of \$6.15; and Claimant J. A. Melton in the amount of \$6.10, account of the violation referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: The claimant B&B employes were regularly assigned to their respective positions on B&B Gang No. 104, Seniority District No. 3, with headquarters in camp cars.

On November 4, 5, 6, 9, 10 and 12, 1959, the claimants were taken away from their regularly assigned headquarters and camp cars to perform work elsewhere on their seniority district, thereby incurring noon day meal expenses on each of the aforementioned dates.

Each claimant submitted an itemized expense account in the usual and customary manner for the following amounts:

Name	Amount
J. T. Cooksey	\$6.00
R. V. Coleman	6.15
J. A. Melton	6.10

The expense accounts were disallowed. Consequently, the claim as set forth herein was timely presented and progressed in the usual and customary manner on the property, but was declined at all stages of the appeals procedure.

The Agreement in effect between the two parties to this dispute dated April 28, 1950, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

POSITION OF CARRIER: The provisions of the above quoted rule do not require the Carrier to reimburse employees who choose to buy their lunches. On the dates for which the claim is made, the employees were notified in advance to take their lunches, which is customary under such circumstances. Because of the severe weather, they were transported to the work location in a truck rather than using a motor car as they normally do. The rule does not contemplate that employees will be reimbursed for lunch during their normal work day. Cooking facilities are available on the camp cars furnished the employees. Normally, the employees would take their lunches with them, but for some reason not explained by the petitioners, they chose to buy their lunches on the particular days of the claim.

In addition to the fact that the Rule does not contemplate payment for lunches under these circumstances, the employees did not "perform work requiring variable hours." It will be observed from the Rule that the furnishing of meals and lodging is only a requirement when the employees "perform work requiring variable hours." The employees in this instance did not perform work requiring variable hours, but worked their normal and regular hours.

In presenting the claim on the property, the claimants took the position that the words "perform work requiring variable hours" should not be considered. Obviously, these words, being a part of the Agreement between the parties, cannot be overlooked. They are significant, and have a definite meaning. Employees who work their normal hours, as the claimants did here, do not perform work requiring variable hours.

This Board is charged with the responsibility of interpreting the contract between the parties, and cannot overlook the plain and unambiguous provisions of the Agreement.

The claim is not in accordance with the Agreement and should be denied.

OPINION OF BOARD: On the dates set forth in the statement of claim Claimants were assigned to Bridge and Building Gang 104 with headquarters in camp cars. On these dates they were taken away from camp headquarters in a company truck to an unnamed location to perform service. Claimants purchased their own noon-day meals and presented to the Carrier expense accounts covering the expense they were put to which the Carrier declined to pay.

The issue presented here concerns the purpose and intent of Rule 13, Paragraph (c), of the Agreement between the parties which, so far as applicable here, provides as follows:

"When employees, enumerated in Paragraphs (a) and (b) of this rule, are taken away from camp outfits or headquarters to perform work requiring variable hours, meals and lodgings will be furnished at the company's expense."

The Rule is specific and there is nothing advanced by the Carrier in the record which supports Carrier's position that these claims should not be paid. The Claimants paid for their noon-day meals on the dates named and they must be reimbursed for the additional expense incurred as herein claimed.

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

There has been a violation of the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1964.