



Award No. 15973

Docket No. MW-14268

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

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

(1) The Carrier violated the Agreement when it failed and refused to compensate Track Laborer T. C. Callison for time consumed in going from and to his designated assembly point during overtime hours (immediately preceding and following his regular assigned hours) during the months of October, November and December 1961 and January 1962.

(2) Track Laborer T. C. Callison now be allowed pay for 58 hours and 10 minutes at his time and one-half rate because of the violation referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: During the period herein involved, Claimant T. C. Callison was a regularly assigned laborer with Extra Gang No. 36, which was headquartered at Jonesboro, Arkansas. The designated assembly point of this gang, including Claimant Callison, was the tool house at that location. The regularly assigned working hours were from 7:00 A. M. to 4:00 P. M., including a one hour meal period.

On each of the dates hereinafter set forth, Extra Gang No. 36 was separated into two units. One unit, under the direct supervision of the foreman, was performing track maintenance work at one location while the other unit, under the direction of the assistant foreman, was assigned other duties at a different location.

On various dates during the period herein involved, the claimant, who was working with the foreman's unit, was required to leave his designated assembly point (tool house) in advance of his regular starting time (7:00 A. M.) in order to arrive at the day's work location in sufficient time to begin work thereat at 7:00 A. M. Moreover, on various dates during this same period, he was required to perform work at said work location until his regular quitting time (4:00 P. M.) before starting the return trip to the tool house.

The claimant received no compensation for the time consumed in traveling between his designated assembly point and the location of the work.

OPINION OF BOARD: Mr. T. C. Callison was a regularly assigned laborer with Extra Gang No. 36. His assigned working hours were 7:00 A. M. to 4:00 P. M. During the months of October, November, and December, 1961, and January, 1962, while working with the foreman's unit, he left the tool house at Jonesboro, Arkansas, before his regular starting time in order to arrive at the work location at 7:00 A. M. After his regular quitting time he returned to the tool house. He was transported between the tool house and the day's work location by the foreman in a motor truck owned by Carrier.

On behalf of Mr. Callison, Brotherhood contends that Carrier violated the Agreement, specifically Rule 7-13 (a) and (f) with the interpretation of this rule, as set forth in the Memorandum of Agreement of October 13, 1959, and Rule 7-5 when it failed to compensate Mr. Callison for the time consumed in going to and from the tool house. It maintains that the tool house was the headquarters and the designated assembly point and that Carrier arbitrarily changed the designated headquarters when it required Mr. Callison to start and end his day's work at a location other than the tool house. It therefore contends that Mr. Callison is entitled to be paid for the time spent in advance of his assigned starting time to travel to the work site and the time spent after his assigned quitting time in returning to his headquarters. Since this was time on duty in excess of eight hours, the claim is for overtime at the time and one-half rate of pay.

Carrier, on the other hand, requests that the claim be dismissed because it was not properly filed within the sixty days specified in Article V of the National Agreement of August 24, 1954. Furthermore, on the merits, Carrier takes the position that Mr. Callison was properly paid for all services performed and that he did no work before or after his assigned hours. It cites Section 5 of the Memorandum of Agreement of October 13, 1959, which provides that employees will not be paid for time consumed in traveling from designated headquarters and assembly points. In addition, Carrier asserts that under the Agreement it has the right to designate temporary headquarters for Extra Gangs.

With respect to Carrier's contention that the claim does not constitute a proper claim under the provisions of Article V of the National Agreement because dates or periods of time were not specified and information as to where the work performed was omitted, we find that the initial claim had sufficient information and clarity to meet the requirements. Furthermore, Brotherhood supplied additional dates and data requested by Carrier during the handling of the claim on the property. Carrier accepted such supplementary information, acted upon it, and therefore considered it as part of the claim. For these reasons we hold the claim is a proper claim and the Board has jurisdiction.

Contrary to Brotherhood's contention that the tool house at Jonesboro was the designated assembly point, and therefore Mr. Callison was entitled to be paid for the time consumed in going to and from that point, we find that the interpretation of Rule 7-13 does not support this position. The interpretation reads as follows:

"Roadmasters or other supervisory officers may designate the starting time and the assembling point; and except in unusual cases where local conditions may justify it, the assembling point should be the tool house, or in the case of extra gangs the tool car or point where the motor cars are stored.

Employees' time will start when they start their duties such as setting on the motor car, loading tools, etc., and will end when they have reached the assembling point and are relieved from duty."

The record discloses that Mr. Callison did not actually perform work until he arrived at the point where the motor car was stored. Here he began his duties by assisting in setting the motor car on the track, loading it with tools from the truck, and placing the tamper on the track. As designated in the interpretation, this Extra Gang employee had as his assembly point the place where the motor car was stored. Also, as this interpretation provides, his time started when his duties commenced there. The assembly point could be changed by Carrier for an Extra Gang employee not furnished with outfit car or tool car. Moreover, the assembly point and the headquarters were not necessarily the same. In this situation the assembly point where Mr. Callison began his duties each day was the place where the motor car was left the previous day. He performed no work before reaching this designated assembly point at 7:00 A. M., nor after leaving the assembly point at 4:00 P. M.

Since no work was performed during the time Mr. Callison traveled to and from the designated assembly point, he is not entitled to payment pursuant to Section 5 of the October 1, 1959 Agreement which reads as follows:

"Neither the employees nor the operator of the vehicle will be paid for time consumed in traveling between designated headquarters and assembling point."

For the foregoing reasons, we hold that the Agreement was not violated.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1967.