



Award Number 17349

Docket Number TE-16438

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Murray M. Rohman, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
NEW YORK CENTRAL RAILROAD—SOUTHERN DISTRICT**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the New York Central System (Southern District), that:

1. Carrier required and permitted extra employee J. N. Dever to work the Indianapolis, Indiana Traveling Agency Route #2 when the regularly assigned man on this position was available to perform this service and did report to work and worked eight (8) hours each day at Pendelton, Indiana. Mr. A. J. Marshall who is the regular assigned employee on the position mentioned above did not receive any compensation for working the eight (8) hours on January 18, 19, 20, 21, 22, 1965.
2. Carrier shall compensate Mr. Marshall on the dates mentioned above for eight (8) hours at the rate of \$3.01 per hour.

EMPLOYEES' STATEMENT OF FACTS: On January 15, 1965 claimant A. J. Marshall, the regularly assigned employee on Indiana Traveling Agency Route #2, advised the carrier by letter that he would be unable to drive his auto account he had not received his December expenses as yet, and asked the carrier to furnish transportation for his route. When claimant Marshall reported to work at his headquarters on Monday, January 18, 1965, the carrier had assigned extra employee J. N. Dever to work at his headquarters on Monday, January 18th and to perform the work on the route using his own, Mr. Dever's privately owned automobile. Claimant Marshall was not informed that he would not be paid or that he was not to do the work at the headquarters station, so claimant Marshall stayed at the headquarters station doing the work at that location until he received his allowance check, which was Friday, January 23, 1965. On that date he advised the carrier that he had received his check and would again resume driving his automobile for company use.

When claimant Marshall turned in his time slips for January 18th thru 22nd, inclusive, they were turned down by the carrier, stating that Mr. Marshall had refused to drive his automobile on the above dates.

The Traveling agents are being paid mileage under the Agreement and this Agreement provides that the first mode of transportation shall be "free rail transportation if available and reasonable." There was available and reasonable transportation by rail but the carrier did not furnish said transportation as requested by Mr. Marshall.

OPINION OF BOARD: This dispute was generated by a complaint that Claimant was not timely reimbursed for travel expenses in connection with his assignment. We are unable, however, to reach any conclusion as to the merits because of the failure of the petitioning Organization to include documentary evidence to which it refers as supporting its position.

It has become axiomatic that the burden of establishing a basis for a claim rests with the claimant or his representative. No such basis having been established by evidence in support of the claim, it must be dismissed for lack of proof.

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 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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1969.