

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Paul C. Dugan, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP  
CLERKS, FREIGHT HANDLERS, EXPRESS AND  
STATION EMPLOYES**

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6675) that:

(1) Carrier violated Rule 52 of the effective Agreement, when it refused to grant John W. Bethel, Vice General Chairman, of the Brotherhood of Railway, Airline and Steamship Clerks, transportation from and to Port Arthur, Texas and Shreveport, Louisiana, a distance of 440 miles, in connection with his consideration and adjustment of grievances, at Kansas City, Missouri.

(2) The System Committee shall now be reimbursed for the amount paid Mr. Bethel (9¢ per mile) for use of his personal automobile in connection with a trip to Kansas City, Missouri to attend a conference on August 8 and 9, 1968, to consider and adjust grievances, when it was necessary for him to drive to Shreveport, Louisiana, and return.

**EMPLOYES' STATEMENT OF FACTS:** For a great number of years, the Kansas City Southern Railway Company, maintained passenger Trains Nos. 15 and 16, between Port Arthur, Texas and Shreveport, Louisiana, which made connections with Trains Nos. 9 and 10, at Shreveport, Louisiana, for Kansas City. Effective May 11, 1968, Trains Nos. 9, 10, 15 and 16 were discontinued, which left no passenger service, whatsoever, between Port Arthur, Texas and Shreveport, Louisiana. Representatives of the Organization, who resided in the Port Arthur area, had used Trains No. 15 and 16, in connection with their trips to Kansas City, to consider and adjust grievances; however, effective with the discontinuance of the last passenger trains between Port Arthur and Shreveport, there was no other means of transportation available, except use of a personal automobile, as Bus and Airplane schedules were very round-about. John W. Bethel is a "Duly Accredited Representative of The Employees" and sought transportation, as such, for the purpose above stated.

Claim was seasonably filed with the Carrier on September 23, 1968; declined on October 28, 1968; appealed to Mr. Farrar, the highest Officer designated by the Carrier to handle such matters, on November 25, 1968 (Employees' Exhibit A); declined by Mr. Farrar, January 20, 1969 (Employees'

Exhibit B); and handled in conference at Kansas City, Missouri, on May 29, 1969, with no agreement reached. (Employees' Exhibit C).

(Exhibits not reproduced.)

**CARRIER'S STATEMENT OF FACTS:** On August 8 and 9, 1968 Carrier scheduled conference with General Chairman Grayson of the Clerks' Organization at Kansas City, Missouri for the purpose of discussing claims and grievances. Mr. Grayson resides at Shreveport, Louisiana which is located about 550 miles south of Kansas City.

Claimant Bethel, employed as revising clerk in Carrier's Local Freight Office at Beaumont, Texas, accompanied the General Chairman to the conference at Kansas City. At the time of the conference the Vice General Chairman, who resides at Kansas City, was absent and claimant was designated as Acting Vice General Chairman.

Pursuant to terms of Rule 52 of Agreement effective April 1, 1943, reading:

"Duly accredited representatives of employees will be granted transportation and necessary leave of absence for investigation, consideration and adjustment of grievances."

Claimant was granted an annual pass (transportation) and time off from his clerical position at Beaumont (leave of absence) to attend the conference.

Mr. Bethel filed claim on his own behalf September 23, 1968 (copy attached as Carrier's Exhibit No. 1) reading in part:

"Claim is hereby filed by the System Committee, Brotherhood of Railway, Airline and Steamship Clerks for 9¢ per mile on a total of 440 miles, the sum of round trip miles, from Port Arthur, Texas to Shreveport, La., and return, for Vice General Chairman, J. W. Bethel attending conference, in Kansas City, Mo., August 8, and 9, 1968 to consider and make adjustment of grievances in line with Rule 52 of Clerks Agreement.

\* \* \* \* \*

For years this Carrier has furnished such transportation, by furnishing a pass, authorizing transportation on its passenger trains, between any conference and/or headquarter points. Recently the KCS discontinued its passenger trains between Shreveport-Port Arthur, and while we are mentioning passes and passenger trains, Rule 52, does not, but only states that representatives will be granted transportation."

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant, in relying on Rule 52 of the Agreement, contends that Carrier violated same when it failed to furnish Claimant transportation from Port Arthur, Texas to Shreveport, Louisiana and return concerning Claimant's trip to Kansas City, Missouri for conference with Carrier's highest Officer over claims, thus requiring Claimant to use his personal automobile for said trip between Port Arthur, Texas and Shreveport, Louisiana.

Said Rule 52 provides as follows:

#### "TRANSPORTATION

"Rule 52. Duly accredited representatives of employees will be granted transportation and necessary leave of absence for investigation, consideration and adjustment of grievances."

Carrier's position in this matter is that Claimant did not request nor was he authorized by Carrier to drive his personal automobile in this instance; that automobile mileage is allowed an employee in performance of company business only when authorized by a proper Carrier officer; that Rule 52 means that Carrier will provide passes for transportation on Carrier's passenger trains; that in regard to past practice, the Organization contended that Carrier has furnished such transportation by furnishing a "pass"; that concerning said past practice, after passenger service was discontinued at various locations on Carrier's system starting in 1935, Carrier never furnished an employee bus or automobile passage or made an allowance therefor; that in the past the parties have not heretofor construed "transportation" as applying to other than passenger trains; that in the absence of a rule or practice requiring Carrier to subsidize Claimant under the circumstances, this claim should be denied.

The determination of this dispute depends on the interpretation of the word "transportation" as used in said Rule 52. This dispute arose as a result of Carrier's discontinuance of passenger train service between Port Arthur, Texas and Shreveport, Louisiana in May of 1968. Does Rule 52 thus require Carrier to supply an employee, such as Claimant herein, transportation or the cost thereof, in the absence of transportation over Carrier's railroad on its passenger trains? The Organization says that it does and Carrier claims it doesn't.

We do not agree with Claimant's contention that Rule 52 requires Carrier in this instance to furnish him transportation or in lieu thereof expenses for travel. Rule 52, as applied in the past, in regard to the interpretation of the word "transportation" in said rule has been limited by the parties to mean over Carrier's passenger trains. This is readily seen by the statement of the Organization's acting Vice-General Chairman, John W. Bethel, in his letter of September 23, 1968 to Carrier's Superintendent of Terminals, L. R. Gardner, when he stated: "For years this Carrier has furnished such transportation, by furnishing a pass, authorizing transportation on its passenger trains, between any conference and/or headquarters points. . . .".

Award No. 12351 of this Board is analogous to the dispute herein. In interpreting Rule 26 of the Agreement the words "Free transportation consistent with regulations will be furnished", the Board went on to state:

"It is our conclusion, that the historical background of this proviso, the tests of internal consistency with other parts of the Agreement and the attitude which the parties jointly expressed towards it by their practices (so far as is ascertainable from the record), — all dictate a finding that the proviso is intended to assure employees free transportation on the Carrier's rail facilities when such are available; we find no obligation for subsidizing week-end transportation to home and return when other means are used."

Therefor, finding Carrier did not violate the Agreement, we must deny the claim.

**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.

#### **AWARD**

Claim denied.

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

**ATTEST:** S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of October 1970.