

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Arthur W. Devine, Referee**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**BURLINGTON NORTHERN INC.**

**(Formerly Chicago, Burlington & Quincy Railroad Company)**

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

(1) The Carrier violated the Agreement when it allowed the members of B&B Gang #4 a meal allowance of two (2) dollars per day instead of three (3) dollars per day. (System Files 11-3/M-1297-68; 11-3/M-1303-69; 11-3/M-1318-69; 11-3/M-1328-69 and 11-3/M-1345-69).

(2) B&B Employes L. C. Wieczorek, R. L. Richardson, R. L. Johnson, S. M. Seroka, H. C. Knodle, Ralph Waltney, D. F. Kline, M. A. Bautsch, L. A. Francis, A. Echelbarger and all other employes subsequently assigned to B&B Gang #4 each be allowed an additional one (1) dollar per day beginning with October 26, 1968, for each day that they are assigned to B&B Gang #4.

**EMPLOYEES' STATEMENT OF FACTS:** The claimants are the foreman and members of B&B Gang #4. They are employed in a type of work the nature of which requires them throughout their work week to live away from home in outfit cars and, therefore, they are entitled to receive a daily meal allowance in accordance with the provisions of Rule 59 which, insofar as it is pertinent hereto, reads:

**"OUTFIT CARS — LODGING — MEALS**

The company shall provide for employes who are employed in a type of service, the nature of which regularly requires them throughout their work week to live away from home in outfit cars, camps, highway trailers, hotels or motels as follows:

\* \* \* \* \*

(d) If the railroad company provides cooking and eating facilities and pays the salary or salaries of necessary cooks, each employee shall be paid a meal allowance of \$1.00 per day.

June 26, 1969, the Carrier advised that the claim would be considered as a continuing claim and that it would **not** be necessary to file a new claim each month.

The claim covering the period October 26 through November 25, 1968 and those filed for subsequent periods were identical to the one filed initially, and is now pending adjudication by this Board. The General Chairman requested the Carrier's concurrence in holding said claims in abeyance pending this Board's adjudication of the initial claim but the Carrier refused to do so.

The time limits within which to submit each of the claims comprising this docket to the Board were subsequently extended 90 days:

Claim was timely and properly presented and handled by the Employee at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

**CARRIER'S STATEMENT OF FACTS:** The claimants named in the Statement of Claim were members of Aurora Division B&B Gang No. 4. Combination kitchen-bunk car 251146 was assigned to this gang during the period of the claim. This car was equipped with stove, refrigerator, utensils, dishes and cutlery.

The claimant employes were paid a meal allowance of \$2.00 per day in accordance with Rule 59(e) of the agreement between the parties entered into on February 21, 1968 pursuant to the provisions of Arbitration Award 298 dealing with expenses away from home. Claim is made herein that the cooking and eating facilities provided by the Carrier did not meet the standards set forth in Rule 59(h), and that the claimants were therefore entitled to the \$3.00 per day allowance stipulated in Rule 59(f).

Rule 59 just referred to, and other rules not pertinent to this particular dispute, are included in a Memorandum of Understanding entered into by the parties to this dispute on February 21, 1968, pursuant to the option of the Employee to elect to adopt Section I and II of Arbitration Award 298. A copy of this Memorandum of Understanding is attached hereto as Carrier's Exhibit No. 1.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The issues involved herein, the Claimants, the factual situation and the agreement rules are the same as were involved in recent Award 18259. We have reviewed that Award and do not find it to be palpably erroneous. It is, therefore, controlling herein and the claim will be sustained.

**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 Employes involved in this dispute are respectively Carrier and Employes 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 4th day of December 1970.