

Award No. 18578

Docket No. MW-18846

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

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 reduced the meal allowance of B&B Gang #2 of the Ottumwa Division from three (3) to two (2) dollars per day for the period extending from January 30 through February 25, 1969. (System File 24-3/M-1327-69).

(2) B&B Foreman Atha, B&B Mechanics R. W. Ambelang, L. F. Ambelang, J. Giza and B&B Helpers E. Williams and B. M. Barker each be allowed an additional one (1) dollar for each day within the period extending from January 30 through February 25, 1969 because of the violation referred to within Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The claimants are the foreman and members of B&B Gang #2 on the Ottumwa Division. 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 employees 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 employe shall be paid a meal allowance of \$1.00 per day.

(e) If the railroad company provides cooking and eating facilities but does not furnish and pay the salary or salaries

In this connection, the only claims that have not yet been declined are M-1337-69, B&B Gang No. 1, St. Joseph Zone, Ottumwa Division, and M-1339-69, B&B Gangs Nos. 1 and 2, LaCrosse Division. These claims are hereby declined for the reason that the kitchen cars assigned to those gangs are equipped with cooking and eating facilities in conformity with the provisions of Rule 59(e).

Please acknowledge receipt.

Yours very truly,

/s/ G. M. Youhn"

Claim was timely and properly presented and handled by the Employees 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 Ottumwa Division B&B Gang No. 2. Kitchen car 209185 was assigned to this gang during the period of the claim, beginning January 30, 1969. The car was equipped with stove, refrigerator, utensils, dishes and cutlery.

The claimant employees 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 Employees to elect to adopt Sections 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 facts involved in this case encompass essentially the same facts as contained in Award No. 18577. Therefore, for the same reasons as outlined in Award No. 18577, this claim will be dismissed.

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.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1971.