NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20971
Docket Number SG-20832

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(The Texas and Pacific Railway Company

STATEMENT OF CLAIM: Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Texas and Pacific Railway Company:

Claim No. 1

On behalf of Assistant Signalman W. B. Tapp, Gang 1611, Odessa, Texas, for $400.00 transfer allowance due him under paragraph 6 of the Agreement of August 11, 1972, account moving his residence from Big Spring to Odessa, Texas, the week of November 6, 1972. /Carrier's file: G 315-70/

Claim No. 2

On behalf of Assistant Signalman R. L. Wright, Gang 1611, Odessa, Texas, for $400.00 transfer allowance due him under paragraph 6 of the Agreement of August 11, 1972, account moving his residence from Big Spring to Odessa, Texas, the last week of December, 1972. /Carrier's file: G 315-71/

OPINION OF BOARD: On August 11, 1972 Carrier announced the change of Signal Gang #1611 from a System Gang in camp cars at Big Spring, Texas, to a headquarters gang in Odessa, Texas. The changes became effective on September 1, 1972. Claimant Tapp moved his residence on November 6, 1972 from the camp cars to Odessa while Claimant Wright moved his residence from Big Spring to Odessa in the last week of December 1972. Both Claimants were allowed five days off to seek a new place of residence and both received an auto allowance but Carrier refused to pay the $400. transfer allowance.

Petitioner and Carrier entered into an Agreement dated August 11, 1972, which provided, inter alia:

> "6. The provisions of Article VIII titled Changes of Residence Due to Technological, Operational or Organizational changes of Mediation Agreement Case A-8811, dated November 16, 1971, will be applicable to employes whose headquarters are changed from camp cars to point headquarters as provided herein."

The pertinent portions of the November 16, 1971 National Agreement, in Article VIII are as follows:

> "ARTICLE VIII - CHANGES OF RESIDENCE DUE TO TECHNOLOGICAL, OPERATIONAL OR ORGANIZATIONAL CHANGES
>
> When a carrier makes a technological, operational, or organizational change requiring an employee to transfer to a new point of employment requiring him to move his residence, such transfer and change of residence shall be subject to the benefits contained in Sections 10 and 11 of the Washington Job Protection Agreement, notwithstanding anything to the contrary contained in said provisions, except that the employee shall be granted 5 working days instead of 'two working days' provided in Section 10(a) of said Agreement; and in addition to such benefits the employee shall receive a transfer allowance of $400. Under this provision, change of residence shall not be considered 'required' if the reporting point to which the employee is changed is not more than 30 miles from his former reporting point."

Carrier asserts that the transfer allowance in the National Agreement, supra, was designed to supplement the expenses incurred in the actual move required; it was associated with the miscellaneous expenses associated with uprooting a family and moving into a different house. Carrier argues that the absence of any actual moving expenses implies that Claimants did not in fact change their residence within the purview of Article VIII. Further, Carrier contends that Claimant Tapp, a single individual at the time, did not incur any of the usual incidental expenses which were to be covered by the $400. ("lace curtain") allowance, since he did not transfer or move any household effects. Additionally, Claimant Wright, according to the Carrier, did not move any household effects either, since he had occupied a rented, furnished mobile home or trailer at Big Spring. Carrier concludes that neither Claimant is entitled to be reimbursed for expenses not incurred under the guise of a "transfer allowance".

Petitioner argues that there are no restrictions on the payment of the transfer allowance. Further, if an employe moves his residence he is entitled to all of the benefits of Article VIII, not just part of them. It is contended that Carrier was spared additional moving and other expenses because Claimants both transported their belongings by auto. Petitioner contends that Claimants moved their residences over seventy miles and are entitled to the full benefits of paragraph six of the August 11, 1972 Agreement.

There is no apparent disagreement with respect to the fact that both Claimants maintained a residence, albeit in camp cars for one and in a rented trailer for the other, at Big Spring prior to the 1972 change to Odessa. The gravamen of Carrier's position is that the move each made to Odessa did not fulfill the requirements of the August 11, 1972 Agreement and consequently not the National Agreement of November 16, 1971 either. In examining the provisions of the August 11, 1972 Agreement it is apparent that it contains no qualifications whatever: it pertains (in paragraph 6) to all employes "....whose headquarters are changed from camp cars to point headquarters...." Again, a careful perusal of Article VIII of the November 16, 1971 Mediation Agreement, indicates that its language pertains to employes required to move their residences due to a transfer to a new point of employment. In addition it is noted that the latter Agreement specifically mandates application of the benefits contained in Sections 10 and 11 of the Washington Job Protection Agreement, and in addition, inter alia, the transfer allowance of $400.00. Section 10 of the Job Protection Agreement provides that all expenses of moving the household and other personal effects shall be reimbursed by Carrier.

A reasonable construction of the two Agreements cited above leads to the inescapable conclusion that neither contains any qualification for the applicability of the transfer allowance, as contended by Carrier. Carrier's interpretation of those Agreements would lead to a modification, in fact, of the language to the effect, for example: no single employes are eligible for the allowance; no allowance will be paid unless it can be proved that household effects were moved. Such modifications of the clear language of the Agreements, even if justified, are beyond the authority of this Board. The Claims must 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.

A W A R D

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulus
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1976.