

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21965
Docket Number SG-21910

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
(Pacific Lines)

STATEMENT OF CLAIM: Claims of the General Committee of the Brotherhood
of Railroad Signalmen on the Southern Pacific
Transportation Company:

Claim No. 1

Carrier file: SIG 108-62

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the Agreement between the Company and its Employees in the Signal Department, represented by the Brotherhood of Railroad Signalmen, effective October 1, 1973, and particularly Rule 26, by refusing to apply Rule 26.

(b) Mr. Frost be reimbursed for the cost of meals incurred while working outside his assigned territory. The first occurrence [sic] on April 26, the amount of \$4.30 for a meal purchased while working on the Sparks District. The second on May 3, the amount of \$4.60 for a meal purchased while working on the Hazen District.

Claim No. 2

Carrier file: SIG 108-66

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the Agreement between the Company and its Employees in the Signal Department, represented by the Brotherhood of Railroad Signalmen, effective October 1, 1973 and particularly Rules 26 and 31.

(b) Mr. D. G. Frost be reimbursed for cost of meals purchased while working outside his assigned territory the amounts of \$2.85 for December 23, 1975 and \$5.80 for January 5, 1976, as claimed on Personal Expense Account Form C. S. 148 submitted January 20, 1976, denied by note dated 1-23-76 signed R.J.F., and subsequently claimed by Local Chairman's claim letter dated January 28, 1976 which was denied by Division Engineer's letter dated February 24, 1976.

Claim No. 3

Carrier file: SIG 108-65

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the Agreement between the Company and its Employees in the Signal Department, represented by the Brotherhood of Railroad Signalmen, effective October 1, 1973, and particularly Rules 26 and 31.

(b) Mr. H. G. Owen be reimbursed the amount of \$6.50 for cost of meal purchased while working outside of his assigned territory on January 3, 1976, as claimed on Personal Expense Account Form C.S. 148, submitted January 20, 1976, denied by note signed R. J. F. dated 1-23-75, subsequently claimed by Local Chairman's claim letter dated January 28, 1976.

OPINION OF BOARD: Rule 26 provides that when Signal Maintainers are used outside of their assigned territory, they will be reimbursed for "...actual necessary expenses for meals..."

One Claimant has submitted claims for meal costs incurred on four (4) separate dates and one Claimant seeks reimbursement for one (1) occurrence.

There appears to be no question that the Claimants were working "off their assigned territory" on the claim dates, nor is there any suggestion that the employees didn't incur the "actual" expenses. Thus, the issue before us is confined to whether or not the expenses were "necessary."

Carrier states that it is permissible to look to other portions of the Agreement in order to evaluate the necessity for the meals in question, and asserts that there is no Agreement provision which would establish necessity for a meal period on a minimum call or after $4\frac{1}{2}$ hours on duty. Further, Carrier argues that past practice supports its denials.

Carrier refers to Rules 20, 21 and 22:

"RULE 20. MEAL PERIOD. When a meal period is allowed it shall be established at a definite time, which shall be between the end of the fourth hour and the end of the sixth hours after starting work. If the established meal period is not afforded it shall be paid for at the overtime rate, and twenty (20) minutes with pay in which to eat, shall be afforded at the first opportunity. This does not apply to employees assigned to eight (8) consecutive hours including an allowance of twenty (20) minutes for lunch."

"RULE 21. LENGTH OF MEAL PERIOD. Unless acceptable to a majority of the employees directly interested, the meal period shall not be less than thirty (30) minutes nor more than one (1) hour. Duration of the meal period within these limits may be changed by agreement between local officers of the Company and the local committee representing the employees."

"RULE 22. SECOND AND SUBSEQUENT MEAL PERIODS. Employees shall not be required to work more than ten (10) hours without being permitted to have a second meal period of thirty (30) minutes, and subsequent meal period of thirty (30) minutes shall be allowed approximately each five (5) hours thereafter. Time taken for meals shall not terminate the continuous service period. In the event the second or subsequent meal periods cannot be afforded, compensation will be allowed for an equivalent amount of time, and twenty (20) minutes with pay in which to eat shall be afforded at the first opportunity. An employee not returned to his headquarters point within two hours after his regular quitting time, will be reimbursed by the Company for the cost of the second meal."

We agree that other portions of an agreement may be considered in an effort to interpret a provision which speaks in terms of "necessary" without any specific rules as to times when meals are permitted. But, reference to other rules does not, in our view, justify a total denial of all claims.

Concerning Claim 1; working for 2 hours and 30 minutes on a Saturday day off (April 26, 1975) between 3:00 p.m. and 5:30 p.m. does not suggest to us the necessity of obtaining a meal; whereas working the hours from 5:00 p.m. to 9:15 p.m. on a day off (May 3, 1975) suggests that it is "necessary" to obtain a meal during that span of time. x-1

Similarly, concerning Claim 2, we question the propriety of the claim for December 23, 1975 (4:00 a.m. to 6:30 a.m.), but when we consider January 5, 1976 (4:00 p.m. to 8:30 p.m.), we feel that the Claimant is entitled to reimbursement. x-2

Regarding Claim 3, working 4 hours on a day off - from 4:00 p.m. to 8:00 p.m. warrants reimbursement. x-3

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 violated.

A W A R D

1. That portion of Claim 1 which deals with May 3, 1975 is sustained.
2. That portion of Claim 2 which deals with January 5, 1976 is sustained.
3. Claim 3 is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1978.

