

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22886
Docket Number CL-22785

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8729)
that:

1. Carrier violated the provisions of Arbitration Board No. 298 when it failed and refused to properly compensate rotating extra board employee M. L. Haas for travel time on October 18, 1977.

2. Carrier shall now be required to compensate rotating extra board employee M. L. Haas an additional forty-five minutes pay at the straight time rate of the Central Agent's position at Crystal City, Missouri for October 18, 1977.

OPINION OF BOARD: Before proceeding to a substantive discussion of the dispute's merits, we must note Carrier's belated inclusion of Claimant's reporting and shift schedule on October 18, 1977 and its rebuttal of the time schedule advanced by the Organization. These facts and arguments were not specifically and visibly raised on the property and their submittal at the National Railroad Adjustment Board level is in contravention of Circular Rule 1. In fact, in both its denial letters of January 20 and March 20, 1978, it failed to controvert the time sequences set forth in the claim. Thus we will assess the dispute's bona fides consistent with this time frame.

Claimant argues that he was directed to report to the depot at Chaffee, Missouri at 5:30 AM to be transported from that situs to Crystal City, Missouri, a distance of about 96 miles. Since it took him one hour and forty five minutes to traverse this distance, which parenthetically speaking, is conceded by Carrier, he contends that he is entitled to forty five (45) minutes additional straight time compensation, pursuant to Section II, D of Arbitration Award No. 298. The Central Agent's position that he was requested to protect at Crystal City had assigned hours of between 6:00 AM and 2:00 PM on that date. This rule requires that:

"If the time consumed in actual travel, including waiting time enroute, from the headquarters point to the work location, together with necessary time spent waiting for the employee's shift to start, exceeds one hour, or if on completion of his shift necessary time spent waiting for transportation plus the time of travel, including waiting time enroute, necessary to return to his headquarters point or to the next work location exceeds one hour, then the excess over one hour in each case shall be paid for as working time at the straight time rate of the job to which traveled. When employees are traveling by private automobile time shall be computed at the rate of two minutes per mile traveled."

In our review of the case, we do not find any precedent or definable past practice that clearly construes this rule and as such we must interpret this language by an analysis of its pivotal section to discern the spirit of its intended meaning. Accordingly, when we carefully review the words beginning with "together with necessary time spent waiting for the employee's shift to start, exceeds one hour, or if on completion of his shift" we find that the compensable travel time relates to the start and the finish of the position's assigned hour and is not intended, by the application of contract interpretation principles, to overlap the assigned schedule. Instead, it reflects a positive intent to provide straight time travel compensation for travel time, waiting time enroute and time spent waiting for the shift to start, not for travel time spent during the assigned shift and for similarly defined time that exceeds one hour after the completion of the shift. Therefore, in the absence of any practice that varies this intended application of the rule, we are compelled to give weight to the intended spirit of this provision by the unambiguous language setting forth its parameters. 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;

Award Number 22886
Docket Number CL-22785

Page 3

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1980.