

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22911
Docket Number CL-22604

Richard R. Kasher, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8592)
that:

1. Carrier violated the Agreement between the parties, when on April 22 and 23, 1977 M. W. Mound was required to suspend work on his regular assignment and travel to Bellevue, Ohio to attend a hearing.

2. Since the charges against Mr. Mound were not sustained, he shall be paid for the two days pay lost plus expenses of \$26.32.

OPINION OF BOARD: Claimant was regularly assigned as an Operator-Clerk at Carrier's "RU" Drawbridge, Lorain, Ohio, on the second shift, Wednesday through Sunday. On Friday and Saturday, April 22 and 23, 1977, Claimant was required to appear at an investigation held at Bellevue, Ohio, to answer charges made against him in connection with an occurrence on April 17, 1977. As a result of the information developed at the investigation, Claimant was cleared of all responsibility in connection with the charges which had been placed against him.

To be present at the investigation to answer the charges, it was necessary that Claimant lose time from his regular assignment on April 22 and 23, 1977. The time lost, plus travel expenses for the trip to and from Bellevue, Ohio, form the basis of this dispute.

The applicable Rule involved in this case is Rule 27, Paragraph (d) which reads:

"(d) If the charge against the employe is not sustained, his record shall be cleared of it. If dismissed or suspended, on account of unsustained charge, the employe will be reinstated and compensated for wage loss, if any, suffered by him, less compensation received from other employment."

Carrier argues that even though Claimant was cleared of the charges placed against him, he was not "dismissed or suspended" as that term is used and intended in Rule 27(d).

Petitioner alleges that Claimant was, in fact, required by Carrier to suspend work on his regular assignment on the hearing dates and that he was required by Carrier to travel from his regular work location to the location of the investigation and that, therefore, inasmuch as the charge against him was not sustained, he is entitled to the payment requested.

We have not been made aware of any precedent which would sustain the Carrier's position in this case. It is our opinion that Petitioner's argument relative to the time lost from the regular assignment is viable and convincing. Claimant was ordered to appear under charges. To comply with this order, Claimant was required to suspend his performance as a regular assigned second shift Operator-Clerk. The charges were not sustained. Therefore, under the language of Rule 27(d) he is entitled to be "compensated for wage loss" and we so order.

The claim for travel time, however, is not provided for in Rule 27(d) and it is denied.

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 to the extent outlined in the Opinion.

A W A R D

Claim sustained to the extent outlined in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of July 1980.