

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23190
Docket Number SG-22861

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Railway Company

STATEMENT OF CLAIM: "Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al. on behalf of the following signal employees for meal expense they incurred over the \$9.00 daily maximum meal allowance arbitrarily set by the carrier, beginning with the expense period shown for each employee and continuing each month their meal expenses exceed \$9.00 per day. (Amount shown is the excess in the initial expense period. Amounts for subsequent months vary)

Claim No. 1. General Chairman file: SR-6. Carrier file: SG-288.

Leading Signalman S. A. Thornton, Lines West signal gang #1. \$9.00 excess in expense period September 16 - October 15, 1977.

Claim No. 2. General Chairman file: SR-28. Carrier file: SG-318.

Signalman D. L. Whalen, Lines West signal gang #1. \$44.55 excess in expense period January 16 - February 15, 1978.

Claim No. 3. General Chairman file: SR-30. Carrier file: SG-320.

Assistant Signalman C. L. Daughetee, Lines West signal gang #1. \$36.00 excess in expense period January 16 - February 15, 1978.

Claim No. 4. General Chairman file: SR-29. Carrier file: SG-321.

Signalman J. R. Jones, Lines West signal gang #1. \$32.55 excess in expense period January 16 - February 15, 1978.

Claim No. 5. General Chairman file: SR-10A. Carrier file: SG-294.

Signal Foreman F. J. Blackburn, Lines East signal gang #4. \$34.35 excess in expense period September 16 - October 15, 1977.

Claim No. 6. General Chairman file: SR-15. Carrier file: SG-297.

Signal Foreman J. E. Naylor, System signal gang #2. \$34.90 excess in expense period October 16 - November 15, 1977.

"Claim No. 7. General Chairman file; SR-19. Carrier file; SG-305.

Signal Foreman W. D. Swicegood, Lines West signal gang #1. \$30.85 excess in expense period December 16, 1977 - January 15, 1978.

Claim No. 8. General Chairman file; SR-20. Carrier file; SG-306.

Signalman L. R. Appleby, System signal gang #3. \$36.00 excess in expense period December 16, 1977 - January 15, 1978."

OPINION OF BOARD: The Organization has appealed a number of claims on behalf of employees for meal expenses.

The Employees assert that District Signal Gangs are entitled to certain expenses under Rule 41 of the Signalmen's Agreement and System Signal Gangs are entitled to reimbursement under Rule 12(b) of the "System Gang Agreement."

Rule 41 specifies:

"Expenses--Rule 41: (Revised--effective February 16, 1948)

"Except as provided in Rules 45 and 49, when employees are sent away from their assigned station or section on company business, they will be allowed actual necessary expenses. This rule shall not apply to signal maintainers and assistants working on their assigned section or territory, except when sent away from automatic block territory; nor to employees assigned to camp cars when they return to camp cars for meals or when meals are taken to them; nor shall it apply in cases where meals and lodging are provided by the company."

Rule 12(b) provides:

"12(b) Employees covered by this agreement will be paid actual necessary expenses for meals on each day which the employee renders compensated service. Receipts for meals will not ordinarily be required."

Notwithstanding the above-cited language which refers to "actual necessary expenses", the Organization insists that the Carrier has "... arbitrarily limited Claimants to \$9.00 per day for meal expenses ...".

The Employees, in the Submission, insist that actual necessary expenses are the "... true, real or genuine expenses incurred by an employee." and when the Carrier established an arbitrary figure in 1975, it did so in violation of the contractual requirements.

The Carrier insists that its employees are only entitled to the amounts specified by binding arbitration (Arbitration Board No. 298) and thus, when it began retiring its camp cars and house trailers and housed its employees in motels or hotels during the work week, the employees were only entitled to \$3.00 per day for meals; but nonetheless, the Carrier reimbursed the Signal Employees for actual reasonable costs. Further, the Carrier insists that the unreasonable expenses submitted by a few employees compelled it to place a limit of \$7.00 on daily meal expenses in 1974, which was thereafter raised to \$9.00 per day.

Of course, the Employees insist that they never accepted the provisions of Arbitration Board No. 298, so that anything contained therein is not applicable to these Employees.

We have reviewed the rather extensive record, which not only deals with the individual claims submitted, but also contains the assertions and arguments of the parties concerning the applicability of Arbitration Board No. 298 to the rights of the parties.

Certainly, there is sufficient evidence presented to form the basis for a conclusion that the parties agreed that I-B-3 of the Board's decision applies to the Employees. Based upon that, we feel it incumbent upon the Employees to demonstrate to the contrary.

Although the Employees urge that there was no such agreement, we find no specific evidence to substantiate that urging and, in fact, there is certain evidence to the contrary, such as the wording of Question 21, as submitted to Board 298 for interpretation.

Finally, we have noted the decision in Public Law Board No. 2004. It is not incumbent upon us to base our determination on the decision which we might have rendered had we heard that case in the first instance. The fact remains that it has a precedential value here, absent a determination that it is palpably erroneous. We are unable to reach such a determination and, thus, we do not find that the Employees have submitted a sufficient showing to compel us to find that the applicable provisions of Board 298 do not apply in this instance. Such being the case, we are unable to find a showing that any rule has been violated in this instance, and we will dismiss the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: _____

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February 1981.