

- NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23330
Docket Number CL-23051

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
 { Freight Handlers, Express and Station Employees
 { Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8831) that:

(a) The Southern Pacific Transportation Company violated the Clerks' Agreement on November 2, 1977, at Eugene, Oregon, when it blocked egress from the property and held the following employees on Company property past their regular eight-hour shift: O. A. Whitwer, E. M. Gile, T. W. O'Connell, K. L. Beazley, R. J. Olson, D. S. Knight and S. L. Estes.

(b) The Southern Pacific Transportation Company shall now be required to allow the above named Claimants fifteen minutes additional compensation at the rate of time and one-half at the rate of the regular positions, November 2, 1977.

OPINION OF BOARD: The Organization claims that Carrier violated the Agreement when it blocked egress from the property on November 2, 1977, at Eugene, Oregon and the following employees were detained from leaving their regular eight (8) hour shifts: O. A. Whitwer, E. M. Gile, T. W. O'Connell, K. L. Beazley, R. J. Olson, T. S. Knight and S. L. Estes. The Organization, therefore, claims fifteen (15) minutes additional compensation at the overtime rate of time and one-half.

The Employees contend that Carrier violated Rules 9, 20 and 21 of the Agreement. In relevant part, these rules state:

"Rule 9 - Day's Work and Work Week

(a) Except as otherwise provided in this article, eight (8) consecutive hours' work, exclusive of the meal period, shall constitute a day's work.

Rule 20 - Overtime

(a) Except as otherwise provided in these rules time in excess of eight (8) hours, exclusive of the meal period, on any day will be considered overtime and paid on the actual minute basis at the rate of time and one-half.

"Rule 20 - Overtime (continued)

(b) Work in excess of 40 straight time hours in any work week shall be paid for at one and one-half times the basic straight time rate except where such work is performed by an employee due to moving from one assignment to another or to or from a Guaranteed Extra Board (extra list in San Francisco General Offices), or where days off are being accumulated under paragraph (g) (3) of Rule 9. See Note to this Rule.

Rule 21 - Notified or Called

(a) An employee notified or called to perform work not continuous with the regular work period shall be allowed a minimum of two (2) hours at overtime rate for two (2) hours work or less, and if held on duty in excess of two (2) hours, the overtime rate shall be allowed on the minute basis. Each call to duty after being released shall be a separate call.

(b) An employee who has completed his regular tour of duty and has been released, and who is required to return for further service within less than one (1) hour following such release, shall be compensated as if on continuous duty."

The circumstances involved in this claim, must be addressed. Claimants used a designated parking lot provided by Carrier. Access to this parking lot is by means of a pedestrian subway under some of the yard tracks. However, at the west end of the subway, the footpath is crossed by two sets of surface tracks utilized occasionally for the purposes of switching and setting out cars to be repaired. The designated parking area is located on the other side of these two sets of tracks.

Claimants went off duty and left their work locations by means of the pedestrian subway on November 2, 1977, but were delayed approximately fifteen (15) minutes by yard switching operations blocking access to the parking lot.

It is undisputed that Claimants were detained when their access to the parking lot was blocked by switching operations. It is also clear that the inability to immediately get on the public streets caused an inconvenience to the employees involved. However, this does not necessarily mean that Claimants are entitled to compensation. Rather, the essential question is whether the inconvenience caused is a violation of the cited rules of the Agreement.

After analyzing the evidence presented, we must conclude that the rules do not entitle Claimants to compensation for the delay. Stated simply, the rules do not appear to warrant compensation.

Each of these rules contemplate compensation in a situation where there is either the performance of work or compensation for the time utilized in connection with the performance of certain duties of an assignment under the direction of Carrier. Here, the circumstances cannot be viewed as overtime work or call service. As such, there is an absence of a specific rule to justify compensation. It is fundamental that this Board does not have the authority to compensate employees for an inconvenience absent a specific rule. See Award 18801.

Thus, given the fact that the delay here is unusual and similar in nature to the delay of any member of the public detained at a public grade crossing by a train blocking traffic on public streets or highways, we must conclude that these narrow set of circumstances do not warrant sustaining the claim. Therefore, we will 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;

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 19th day of June 1981.