

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24054
Docket Number SG-24066

T. Page Sharp, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Central of Georgia Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railroad Company:

On behalf of Signal Foreman J. B. Dumas and Leading Signalman B. F. Jones for meal expense they incurred over the \$9.00 per day limit Carrier arbitrarily placed on meals for employees assigned to signal gangs in violation of Rule 28 of the Signalmen's Agreement, beginning with \$88.00 for Mr. Dumas, and \$62.55 for Mr. Jones, for the expense period ending December 15, 1979, and continuing."

OPINION OF BOARD: For a number of years Carrier had discontinued the use of camp cars and had housed signal gangs in motels. Employees were reimbursed for meals but a maximum per diem for meals was nine dollars. Several times before the Organization had arbitrated the propriety of the limit. Each time the decision went against the Petitioner.

The point of contention is the relationship between the Award of Arbitration Board No. 298 and the rules of the Agreement. Board 298 had established a schedule of benefits to be provided certain employees which included limits on food and lodging. The Organization was free to take some or all of the benefits. If it refused a benefit awarded by Board No. 298, the benefits of the employees reverted back to the Agreement.

The conflict arises between sections I-B(3) of the award of Board No. 298 and Rule 28 of the Agreement. Rule I-B(3) states:

"Section 1 -

I. The railroad company shall provide for the employees who are employed in a type of service, the nature of which regularly requires them throughout their work week to live away from home in camp cars, camps, highway trailers, hotels or motels as follows:

B. Meals

3. If the employees are required to obtain their meals in restaurants or commissaries, each employee shall be paid a meal allowance of \$3.00 per day."

and Rule 28 states:

"Rule 28 - Actual expenses will be allowed employees while away from their regular assigned home station in connection with their assignments. It is not the intention to pay for the expense of the noon-day meal for signal maintainers when working on their designated sections."

The Organization's position is that since camp cars are not furnished, the employees who would have occupied the same are employees who are away from their regular assigned home station and come within the purview of Rule 28.

The Carrier's position is that the employees are covered by I-B(3) and can claim no more than \$3.00 per day for meals. It contends that the \$9.00 per day is a gratuity and therefore that it had a right to set a limit.

Award 2 of Public Law Board 2004 had considered the issues raised here and had concluded that the employees come within the embrace of Section 1 and denied the claim.

Award 23190 considered the identical question and also the award of Public Law Board No. 2004. In addressing the issue of whether that award was palpably wrong the Board stated:

"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."

Since the issuance of Award 23190 the Organization submitted Interpretation No. 84 (Question No. 1 - BRS and Central of Georgia Rwy. Co. to Arbitration Board No. 298.) The question and the answer stated:

"QUESTION: Brotherhood of Railroad Signalmen - Central of Georgia Railway Co. Did the option exercised by the General Chairman December 7, 1967, and amended January 26, 1968, abrogate provisions of the 'the existing Signalmen's Agreement to an extent which would permit the Carrier to unilaterally - eliminate camp cars and avoid the payment of actual expenses for meals and lodging to signal gang employees formerly in camp cars'?"

ANSWER: Neither the Award of Arbitration Board 298 nor the option exercised thereunder by the BRS on the Central of Georgia Rwy. Co. abrogated rules 14, 28 or 61 of the existing Agreement between the parties.

The Board does not assume jurisdiction to determine the rights of the Carrier or the Organization under the schedule rules."

The Organization states that this Award establishes that Rule 28 was not superceded by the benefits of the Award of Arbitration Board No. 298. It contends that Rule 28 should be applied to the signal employees who would be in camp cars if such were furnished. These employees, it is argued, become employees away from their regular assigned home station. Their meal allowance then becomes their actual expenses.

The juxtaposition of the Answer to Question No. 84 into the Argument does not add to nor subtract from the former awards. In the former awards it was never contended that Rule 28 had been abrogated. The same issue presented here had been presented to Public Law Board 2004. In considering whether the employees were away from their regular assignment the Board stated:

"The Board finds that Signal Gang No. 6 is comprised of employees whose character of service is that as annunciated in Section 1 (1) of the Award of Arbitration Board No. 298. That Claimants were not housed in camp cars neither serves to cause a change in the coverage of said Award, nor otherwise bring Claimants under Rule 28. See, among others, Third Division Awards 18496, 18497, and 18596. The Employee contention here raised, concerning the absence of the camp cars, was also presented to the Third Division which, in its Award 18522 (Rimer), labeled such as 'disingenuous argument' and there held that Claimants therein were covered by Section 1 of Award No. 298 and were properly compensated thereunder. Here, Claimants were not, as alleged, away from their home station."

The Board does not find that the question and answer-submitted to Arbitration Board No. 298 has diluted the effect of the former awards. In view of the long standing precedent concerning the meal allowance, this Board finds that the Agreement has not been violated.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

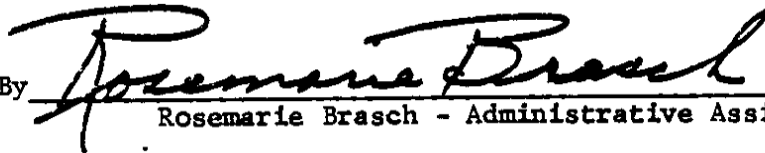
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By



Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of November 1982.

