

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24704
Docket Number MW-24462

Martin F. Scheinman, Referee

(Brotherhood of Maintenance of Way Employes

PARTIES TO DISPUTE:

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(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed and refused to allow Machine Operator Karl Wagner eight (8) hours of pay for time expended in complying with the Carrier's instructions on June 30, 1980 (System File 80-400.34-802/11-1620-51).

(2) Because of the aforesaid violation, Machine Operator Karl Wagner shall be allowed eight (8) hours of pay at his straight-time rate.

OPINION OF BOARD: Claimant, Machine Operator Karl Wagner, received a letter from Carrier dated June 26, 1980. In it, Carrier instructed Claimant to have his annual physical examination "immediately". Claimant was notified that his failure to promptly furnish the required medical documentation could subject him to being withheld from service.

Claimant, in response of this directive, scheduled an examination in his home city of Arkansas City, Kansas on June 30, 1980. June 30th was a scheduled work day for Claimant.

The Organization contends that Claimant was entitled to receive compensation from Carrier for the day that he missed work to go to his physician. The Organization asserts that Article VII, Section 1 and Article VIII, Section 9 of the Agreement supports Claimant's claim.

These provisions state:

"ARTICLE VII - WORK WEEK

*NOTE

The expressions 'position' and 'work' used in this Agreement refer to service, duties or operations necessary to be performed the specified number of days per week, and not to the work week of individual employes.

*Section 1. There is established, for all employes, subject to the expectations contained in this Agreement, a work week of forty (40) hours, consisting of five (5) days of eight (8) hours each, with two consecutive days off in each seven; the work weeks may be staggered in accordance with the Companies' operational requirements; so far as practicable the days off shall be Saturday and Sunday. The foregoing work week rule is subject to the provisions of this Agreement.

"ARTICLE VIII - HOURS OF SERVICE,
OVERTIME AND CALLS

* * * *

Hours Paid For

"Section 9. Regularly established workday working hours will not be reduced below eight (8) unless mutually agreed upon. When less than eight (8) hours are worked for convenience of employes, or when regularly assigned for service of less than eight (8) hours on rest days and holidays, or when, due to inclement weather, interruptions occur to regularly established working period, preventing eight (8) hours' work, actual hours worked or held on duty will be paid for. Rest day and holiday assignments need not necessarily cover same work as performed on other days."

This claim must be rejected. There is absolutely no Agreement support to substantiate Claimant's view that Carrier is obligated to reimburse an employee for the time spent taking a required examination. None of the Articles cited by the Organization can be viewed to authorize or require such payment. See also First Division Award #17747. As such, we must deny the claim in its entirety.

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:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of March, 1984