

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25213
Docket Number MS-25352

Robert W. McAllister, Referee

(D. Bruce Dicke

PARTIES TO DISPUTE:

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(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"The agreement between Consolidated Rail Corporation and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, TC Division, effective July 1, 1979, provides in Rule 37(b) that employees will be compensated for travel time when required to work at other towers. Mr. Dicke was not paid for this travel time from July 1, 1979 to June 17, 1980."

OPINION OF BOARD: This claim on behalf of D. Bruce Dicke is for travel time under Rule 37(b)(3) in the amount of two minutes per mile for the period July 1, 1979, to June 16, 1980, (\$2,560.68). Carrier acknowledges Claimant should have been paid the travel allowance of two minutes per mile. Notwithstanding, Carrier argues that Rule 41 states a claim can only be retroactive for sixty days. The two minutes per mile allowance is a reimbursement for travel. The applicable rule language is found under Rule 41(i), which states:

"A claim may be filed at any time for an alleged continuing violation and all rights of the Claimant(s) involved shall be protected by the filing of one claim or grievance based thereon so long as such alleged violation, if found to be such continues. However, no monetary claim shall be allowed retroactively for more than sixty (60) days prior to the filing thereof."

This Board finds the rule clear and unambiguous. It further finds the record supports the Carrier's assertion the claim filed on or about August 7, 1980, involved a continuing violation and that payment by Carrier of that portion which was within the sixty day time period specified in Rule 41 constituted proper payment of 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 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.

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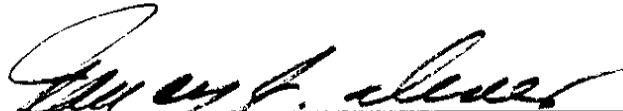
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever-Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

