

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25467
Docket Number MS-25432

Herbert L. Marx, Jr., Referee

(F. M. Buetzer

PARTIES TO DISPUTE:

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(Missouri Pacific Railroad Company

STATEMENT OF CLAIM:

Claim for compensation for all time lost due to interruption of employment by carrier's decision, March 15, 1982.

OPINION OF BOARD: The Claimant was subject to an investigative hearing on the following charges:

- "1. You failed to comply with instructions issued to you concerning your travel from headquarters during the month of February 1982.
2. You falsified your request for reimbursement of personal expenses for the month of February 1982."

Following the investigative hearing, the Carrier found the Claimant guilty of the charges and dismissed him from service as of March 12, 1982. The Organization initiated a claim on behalf of the Claimant, calling for his reinstatement with full pay and benefits, on the basis that the discipline was "far in excess" of what should be assessed an employee with 34 years of service and "an otherwise excellent work record". During the claim handling procedure on the property, the Carrier determined to return the Claimant to service "on a leniency basis without pay for time lost". According to the Carrier, the Claimant was reinstated on November 24, 1982.

The dispute was forwarded to the Board for resolution. The claim, filed by the Claimant's attorney on his behalf, sought compensation "for all time lost due to interruption of employment" as well as the following:

"reimbursement of personal expenses at issue were part of the wage scale which was bulletined to employees for the time period effective June 1, 1976, and that said decision has never been re-negotiated or cancelled."

The Carrier argues that the request for "reimbursement of personal expenses" was not part of the original claim. There is no question that the Board may not consider this portion of the claim, since it was not submitted or considered by the parties in the handling on the property. As stated in Award No. 21441: "It is the intent of the Railway Labor Act that issues in a dispute before this Board shall have been framed by the parties in conference on the property". Innumerable other Awards are to the same effect.

As to the claim in reference to the eventual disciplinary action (that is, time lost prior to the leniency reinstatement), this is properly before the Board for resolution. The record shows, however, that the Claimant had been specifically advised that claims for per diem allowances in his mobile assignment were to be submitted only on days when he was traveling. In the instance under review, the Claimant submitted claims for five days of per diem allowance in February 1982, when he had only received permission to travel (and had so traveled) on only one day. If the Claimant believed he was entitled to reimbursement on non-travel days, a dispute could have been initiated for interpretation of the applicable rules. Submitting pay vouchers for travel allowance when no such travel occurred was obviously the improper way to proceed -- and in direct contradiction to previous advice given to him by the Carrier (even if there may have been some earlier uncertainty on the point). The Board finds no basis to disturb the Carrier's disciplinary action.

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 respective 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 dismissed and denied in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May 1985.