

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 28713
Docket No. TD-29038
91-3-89-3-442

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

(American Train Dispatchers Association
PARTIES TO DISPUTE: (
(Southern Railway Company

STATEMENT OF CLAIM:

"Carrier violated Article VI of the National Agreement dated May 30, 1979, when on the second period of January 1988 pay period Carrier recovered the sum of \$20.00 which had been paid to Mr. Heflin on the first period of December 1987 pay period.

The Attorney General for the State of Alabama, has determined that a Ten-Dollars per day payment, for jury service authorized under section 12-19-210, code of Alabama, 1979, is an expense allowance and not a salary. Therefore, should not be subtracted by an employer from the employee's normal salary under section 12-16-8, code of Alabama, 1975.

Kindly acknowledge receipt of this appeal advising if claimant Heflin will be reimbursed the \$20.00 recovered from his pay check on the second period of January 1988."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimant served as a juror in Walker County, Alabama Circuit Court. As a result of this jury duty, he was required to miss two days of work. Carrier paid Claimant his basic day's pay for the two days, as is required by Article VI, Jury Duty, of the National Agreement. This Article reads as follows:

"ARTICLE VI- JURY DUTY

When a regularly assigned employe represented by the organization signatory hereto is summoned for jury duty and is required to lose time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each day lost less the amount allowed him for jury service for each such day, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

(1) An employe must furnish the Carrier with a statement from the court of jury allowances paid and the days on which jury duty was performed."

Claimant furnished Carrier with the statement from the courts confirming his assignment as a juror. He indicated that he received \$10 per day for serving as a juror. Carrier deducted \$20 dollars (\$10 dollars for each day he was paid) from his pay.

A Claim was filed protesting the deduction. It was denied by Carrier and has been submitted to this Board for resolution.


At issue in this instance is whether the \$10 paid each day to a juror is in the nature of a fee that can be deducted from an employee's pay or whether it is an allowance paid by the court for food, lodging, or transportation. This Board has reviewed the record and has concluded that the reasoning relied on in Second Division Award 9488, with this Referee in attendance, applies equally as well to the instant case. The Claim was denied in that decision.

We can find no evidence in this record to support the Organization's position that the \$10 per day in question is paid to a juror specifically for food, lodging, or transportation, the sole basis mandated by Article VI of the National Agreement for not returning money to the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of March 1991.