

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(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 to properly compensate Track Foreman J. M. Rechterman and W. C. Kitchen for time expended traveling to and from their regular assignments to perform Track Supervisor relief work on certain dates during November and December, 1985 and January, February and March 1986 (System Files 20-45-864/11-2240-120-50, 20-37-864/11-2240-120-49 and 20-37-865/11-2240-120-51).

(2) As a consequence of the aforesaid violation, Mr. J. M. Rechterman shall be allowed thirty-three and one-half (33 1/2) hours of pay at his pro rata rate and Mr. W. C. Kitchen shall be allowed twenty-five (25) hours of pay at his pro rata rate."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

This dispute arises from the Carrier's determination to deny claimed travel time submitted by the Claimants. The Carrier maintains the Claimants were not entitled to travel time under the provisions of Rule 37 (b) of the Agreement while they were working as relief Track Supervisors. The Organization disputes the Carrier's conclusion with respect to Rule 37 (b), but initially argues the Carrier violated the provisions of Rule 45 set forth below:

"For discrepancies in the pay of employes amounting to one day's pay or more, time checks shall be issued to the employes within seven days after request therefor has been made, providing the shortage can be verified within that time.

When overpayments have been made to employees, no deductions shall be made to cover the overpayments beyond sixty days prior to the date of advice to the individual, with copy to the General Chairman, with respect to deduction to be made."

The Organization avers that Rule 45 obligates the Carrier to send the General Chairman a copy of its notice to the Claimants advising them of a deduction because of an asserted overpayment. Analysis of the record reveals no evidence showing the Carrier complied with the clear requirement to provide the General Chairman with a copy of the advice (Notice) that a deduction would be made. Accordingly, we will sustain the Claim as submitted.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Bever - Executive Secretary

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