Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31156
Docket No. SG-31247
95-3-93-3-338

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Transportation
(Company

STATEMENT OF CLAIM:

"Claims on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago & North Western Transportation Co. (CNW):

Case No. 1

Claim on behalf of J.R. Poland for payment of $23.50, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimant for the total cost of obtaining a Commercial Drivers License required for his position. Carrier's File No. 79-92-26. General Chairman's File No. S-AV-91. BRS File Case No. 8996-CNW.

Case No. 2

Claim on behalf of P.D. Sclafani for payment of $30.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimant for the total cost of obtaining a Commercial Drivers License required for his position. Carrier's File No. 79-92-30. General Chairman's File No. S-AV-97. BRS File Case No. 8997-CNW.

Case No. 3

Claim on behalf of E.C. Hiekkanen for payment of $29.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimant for the total cost of obtaining a Commercial Drivers License required for his position. Carrier's File No. 79-92-28. General Chairman's File No. S-AV-95. BRS File Case No. 8998-CNW.

Case No. 4

Claims on behalf of G. Kreegier, K.M. Carlson and K.P. Connolly for payment of $30.00 each, and R.J. Peoples for payment of $12.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimants for the total cost of obtaining a Commercial Drivers License required for their positions. Carrier's File No. 79-92-28. General Chairman's File No. S-AV-95. BRS File Case No. 8998- CNW.

Case No. 5

Claim on behalf of K.M. Fisher for payment of $53.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimant for the total cost of obtaining a Commercial Drivers License required for his position. Carrier's File No. 79-92-28. General Chairman's File No. S-AV-95. BRS File Case No. 8998-CNW.

Case No. 6

Claim on behalf of P.R. McCarty and L.B. Frank for payment of $40.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimants for the total cost of obtaining a Commercial Drivers License required for their positions. Carrier's File No. 79-92-25. General Chairman's File No. S-AV-88. BRS File Case No. 8999-CNW.

Case No. 7

Claim on behalf of J.M. Copeland for payment of $40.00, account Carrier violated the current Signalmen's Agreement, particularly Rules 30, 56, and 58, as well as the established practice of reimbursing employees for special licenses, when it refused to reimburse the Claimant for the total cost of obtaining a Commercial Drivers License required for his position. Carrier's File No. 79-92-25. General Chairman's File No. S-AV-88. BRS File Case No. 8999-CNW."

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 employee 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.

The fact situation in this series of claims is straightforward and not in dispute. By notice dated February 24, 1992, addressed to all C&S employees, Carrier advised that all individuals holding or bidding on any position with the title of Crew Foreman, Leader Signalman, Signalman and/or Assistant Signalman would thereafter be required to have a valid Commercial Drivers License (CDL). This requirement by Carrier was in compliance with a mandate of the U.S. Department of Transportation - Federal Highway Administration relative to the operation of certain classes of vehicles. The Claimants in this dispute are all Signal department employees who are or were assigned to various positions in the categories as outlined above. Each of the Claimants obtained the CDL. Carrier, by a unilateral policy decision, reimbursed each of the Claimants for 50% of the cost of obtaining the CDL.

The Organization, in their initiation and progression of the individual claims, contended that Carrier's requirement to obtain a CDL placed the CDL in the category of a "tool" and, therefore, Carrier's requirement of the possession of this "tool" without full reimbursement for the cost of obtaining the "tool" violated Rule 56 of the Agreement as well as "the established practice of paying for expenses involved in obtaining special drivers licenses." The Organization also argued that the 50% reimbursement by Carrier was not equitable in that the same class of employee operating in the different states in which the Carrier operates is required to pay differing amounts for the CDL on the basis of the individual state's licensing fees.

Rule 56, in pertinent part, reads as follows:

> "(a) The transportation company will furnish such general tools as are necessary to perform their work, except that employees will furnish their own pocket tools, such as pliers, screw drivers, rules and pocket knives."

From the Board's review of this case file, it is convinced that there has been no violation of the provisions of Rule 56. The requirement to have a valid CDL does not make it a "tool." Rather, it is a qualification for the position. It is a condition of employment for employees in these categories. The contention of the Organization relative to Rule 56 is rejected.

As to the Organization's allegation relative to the existence of a past practice of full reimbursement for obtaining special drivers licenses, there is no evidence to be found in this case record to support such an allegation. Carrier unequivocally denies that such a situation ever existed. It is beyond question that the party asserting the existence of a past practice must come forward with evidence and/or proof to support such an assertion. In the absence of such evidence and/or proof in this case, the Board is compelled to conclude that no such practice exists.

The Carrier's policy of reimbursing 50% of the cost of the CDL is not a subject for review or revision by this Board. If it is not equitable because of the differing fees charged by the several states in which the Carrier operates, then that is a matter for the parties to resolve through collective bargaining. It cannot be resolved by this Board.

The claims as presented are denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of September 1995.