

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31505
Docket No. MW-32085
96-3-94-3-479

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed and refused to reimburse Mr. G. E. Loomis for his mileage expense incurred on June 14, 15, 16, 17, 18, 19 and 20, 1993 while assigned to a relief position at Solway Tunnel on the K&A Seniority District [System File 6(7) (93)/12 (93-1109) LNR].
- (2) As a consequence of the violation referred to in Part (1) above, Claimant G. E. Loomis shall be compensated for the actual expenses, cited within the July 1, 1993 Engineering Expense Report, which the Carrier did not allow."

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.

Claimant was assigned as a Crane Operator headquartered at La Follette, Tennessee. On June 14 through June 20, 1993 Claimant was used to protect the flagging position at the Solway Tunnel. Claimant used his personal vehicle to drive from La Follette to the Solway Tunnel and back each day, a total of 115 miles. Carrier officials allowed the Claimant only 30 miles per day. This claim is for the difference between \$68.80 and \$239.44.

There is no question that the Claimant worked at the Solway Tunnel and that the distance from La Follette to the tunnel is 115 miles roundtrip.

The Organization argues the Claimant is entitled to the monies in accordance with Rule 47 I (C)(b)(2) which reads:

"(b)(2) An employee who is not furnished means of transportation by the railroad company from one work point to another and who uses other forms of transportation for this purpose shall be reimbursed for the cost of such other transportation. If he uses his personal automobile for this purpose in the absence of transportation furnished by the railroad company he shall be reimbursed for such use of his automobile at the rate of fourteen cents a mile. If an employee's work point is changed during his absence from the work point on a rest day or holiday this paragraph shall apply to any mileage he is required to travel to the new work point in excess of that required to return to the former work point."

The Organization also avers that Claimant was instructed by a Carrier Official to work the tunnel job.

Carrier argues Claimant asked to fill the vacancy which is a fixed headquarters job and, as such, is not entitled to mileage. It further argues that the Claimant was improperly paid overtime and the 30 miles per day. The Carrier's position is that the Board should dismiss the case because of the dispute in facts.

However, the Carrier failed to cite a Rule which would change the Claimant's status as a result of "requesting" to fill the temporary vacancy. The record is clear that the Claimant was assigned a fixed headquarters at La Follette, was required to work at the Solway Tunnel, and was not furnished transportation from La Follette to the Solway Tunnel. In accordance with the Rule cited by the Organization the Claimant is entitled to be reimbursed for the mileage traveled.

AWARD

Claim sustained.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 23rd day of May 1996.