

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31950  
Docket No. CL-32327  
97-3-95-3-158**

**The Third Division consisted of the regular members and in addition Referee Fred Blackwell when award was rendered.**

**PARTIES TO DISPUTE: (**  
**(Transportation Communications International Union**  
**(National Railroad Passenger Corporation (AMTRAK)**

**STATEMENT OF CLAIM:**

**"Claim of the System Committee of the Organization (GL-11136) that:**

**The following claim is hereby presented to the Company in behalf of Claimant(s) listed on Attachment A:**

- (a) The Carrier violated the Clerks' Rules Agreement effective July 21, 1972, as revised, particularly Rules 7, 14, 16, 17 and other rules, as well as Memorandum of Agreement No. 9, when following the Claimants' attendance at company sponsored meeting(s) held March 29, 30 and 31, 1993, located at Rensselaer, NY, as directed by letter dated March 24, 1993, and it failed to fully compensate Claimants at the overtime rate, based on the appropriate pro rata rate of pay for each of their regular positions, for all hours they worked outside their regular assigned tours of duty.**
- (b) Any Claimant who attended said meeting(s) continuous with their regular work period, or were required to return for further service following their regular work period should each now be allowed a minimum of four (4) hours time and one-half pay, or on the minute basis, if they were held longer than four (4) hours, based on the appropriate hourly rate for each hour that they attended said meeting(s).**

- (c) In any case where a Claimant was required to return for further service following their regular work period, they are to be considered as if on continuous duty, and shall be paid accordingly.
- (d) Any Claimant who attended said meeting(s) on their assigned rest day should be allowed a minimum of six (6) hours punitive pay, based on the pro rata hourly rate of their regular assigned position.
- (e) In all other cases, Claimants should each be allowed a minimum of three (3) hours time and one-half pay, or on the minute basis if they were held longer than two (2) hours, based on the appropriate hourly rate for each hour that they attended said meeting(s).
- (f) Claimants should be allowed the appropriate travel time and expenses incurred for their attendance.
- (g) Any clerical employee that attended these company mandated meeting(s) who are not listed in Attachment 'A' should also be considered as a Claimant in this claim.
- (h) This claim has been presented in accordance with Rule 25 and should be allowed.

**Attachment 'A'**  
**MONDAY, MARCH 29**

**Michelle Kepner**  
**Dennis Baumgardner**  
**Sue Doyle**  
**Gene Jakubowski**  
**Bob Hall**  
**Joe Coleman**  
**Brian Jeffers**

**TUESDAY, MARCH 30**

**Ron Wood**  
**Tom Austin**  
**Steve Leonardo**

John Kircher  
Kathy Fay  
Patti Anderson  
Joe Wolodkevich  
Fred Hiller  
Rich Kweiler

**WEDNESDAY, MARCH 31**

Dennis Baumgardner  
Rich Kweiler  
Brian Jeffers  
Michelle Kepner  
Sue Doyle  
Joe Coleman  
Bob Hall"

**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 were given due notice of hearing thereon.

All of the 16 Claimants in this case attended four hours of safety training classes at Rensselaer, New York, on either March 29, 30, or 31, 1993. Some of the Claimants attended the safety training during their regular duty tours and were paid as if they had worked their entire regular eight hour tour. Some Claimants who attended outside their tours were paid at their straight rate for their four hours of attendance of the safety training classes. The Claimants who traveled to the training site were paid travel time

and mileage, and hence the only issue in this case relates to the additional compensation claimed by the Organization.

The Organization submits that the Claimants' attendance at the training classes was mandatory, that compensation for such attendance at the straight time rates violated the Agreement Rules, and that, under prior authorities, the Carrier should be required to compensate the Claimants for attending the classes under Rule 14 - OVERTIME.

The Carrier submits that prior authorities hold that safety training is of mutual benefit to the Carrier and the employees, that such training is not "work" or "service" as contemplated by pay rules, and that where, as here, the Carrier pays straight time for attendance in training classes, the training time, absent contract language or practice to the contrary, is not compensable at the overtime rate.

In assessing the foregoing, and the entire record including the parties' Submissions in support of their positions in the case, and after study of the conflicting authorities cited by the parties, the Board finds the Organization's authorities to be more persuasive and applicable to the herein facts than those cited by the Carrier.

Although the parties joined issue on whether Rule 32 is applicable to this dispute, the Board notes that the record information contains ambiguities which preclude resolution of this issue and additionally, said resolution is not necessary for the determination of this dispute.

The claim is supported by the record. Accordingly, and in line with Third Division Award 31949, the Carrier is directed to pay the Claimants under Rule 14 whose attendance at the classes is confirmed by the parties' joint check of the records.

### **AWARD**

**Claim sustained in accordance with the Findings.**

**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 19th day of March 1997.**

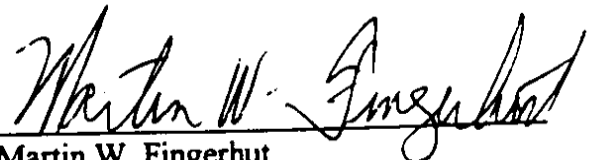
**CARRIER MEMBERS' DISSENT  
TO  
THIRD DIVISION AWARD 31950, DOCKET CL-32327  
(Referee Blackwell)**

The overwhelming weight of arbitral authority supports that training is not "work" or "service" as contemplated by pay rules. Second Division Award 8726, Third Division Award 20323, and other rulings referenced in the record before the Board represent the substantial body of industry precedent on this issue. The Majority's finding that the parties' overtime pay rule applies to Claimants' attendance at safety training contravenes this well-settled precedent, while passing on a straight-time training rule in effect on the property, and invoking an irredeemably nostalgic return to days of unjust enrichment in the railroad industry.

For these reasons, we do dissent and hold this Award to be without precedent.



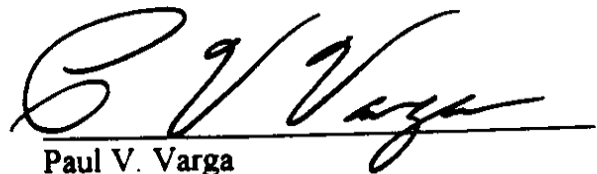
Patricia A. Engle



Martin W. Fingerhut



Michael C. Lesnik



Paul V. Varga

4/25/97