

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32009
Docket No. SG-32210
97-3-95-3-3**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway Company**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka & Santa Fe Railway (ATSF):

Claim on behalf of S.S. Boehme for reimbursement of \$28.52 actual expense incurred in the purchase of required safety equipment (steel-toed boots), account Carrier violated the current Signalmen's Agreement, particularly Rule 46, when it refused to compensate the Claimant for this actual and necessary expense. Carrier's File No. 94-14-9. General Chairman's File No. 45-1195. BRS File Case No. 9510-ATSF."

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.

The dispute in this case centers around the provisions of Carrier's Safety and General Rule 1210 which reads as follows:

"RULE 1210:

Employees who routinely work in the field must wear footwear that provides ankle support and a defined heel.

Employees who must get on or off standing or moving equipment, must wear lace-up footwear not less than six inches in height.

NOTE: In designated areas, safety footwear, lace type, with safety toes, is required. Unless employees work exclusively in offices, they must not wear:

- Thin-soled or high heeled shoes or boots**
- Sandals**
- Athletic (sports) shoes or**
- Similar footwear.**

Office employees whose duties require them to inspect yards, tracks, transport crews, load trailers onto flat cars, or similar outside duties, must wear appropriate footwear."

The Claimant was employed as a Signal Maintainer on Carrier's Oklahoma Division. As such, he was covered by and subject to the requirements of Rule 1210. To meet his obligation in this regard, Claimant, in August 1993, purchased through a Carrier-approved vendor a pair of safety-toe boots which met the requirements set forth in Rule 1210. In accordance with a gratuitous policy of the Carrier, Claimant paid only 25% of the purchase price of the boots while Carrier assumed 75% of the purchase price. This claim seeks reimbursement of the 25% paid by Claimant.

The Organization acknowledges that Carrier has the right to require the use of safety-toe boots as was done in this case, but insists that Carrier must bear the full cost of such boots. It cites Rule 46 of the Agreement in support of its position. Rule 46 reads as follows:

"RULE 46

The Railway Company will furnish the employee such general tools as are necessary to perform his work, except such tools as are customarily furnished by skilled workmen."

Disputes of this nature are not new to our Board. Our decision in this case plows no new ground. The same or very similar arguments have been heard, considered and ruled upon by our Board in several prior Awards. One of the recent determinations in this regard is found in Third Division Award 31746 in which it was held:

"The Board has considered all of the contentions of the parties and has reviewed the citations of authority presented by the parties. It is the Board's conclusion that there is no language to be found in Rule 56 which requires that the Carrier must furnish shoes to the employee. The FRA and Safety Rule requirement to wear safety-toe shoes while working in the areas as set forth in Safety Rule 210 does not ipso facto convert the shoes into a 'tool.' Rather, the shoes are a condition of employment when working in such areas. The opinions expressed in Third Division Awards 29656 and 31156 as well as Second Division Award 12726 support the conclusions reached in this case. Therefore, the claim as presented is denied."

Likewise, the instant claim is 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 6th day of May 1997.