

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33450
Docket No. CL-34005
99-3-97-3-529

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11804) that:

- 1) Claim in behalf of Spare Operators S. D. Willey for travel miles Waterville to Portland ME, and return each day April 11 - 30, 1996.
- 2) Carrier violated Rules 11, 18, 29, 7.
- 3) Claim should be sustained as presented.”

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.

On April 2, 1996, the Claimant's position as a Tower Operator at Waterville, Maine, was abolished. To avoid furlough, the Claimant traveled to Portland, Maine,

each day to train as a Tower Operator at Rigby Tower. The instant claim seeks reimbursement for mileage expense between Waterville and Portland.

Rules 29 and 7.6 provide for reimbursement of travel costs when employees are required to travel. The record developed on the property discloses that there is a factual dispute as to whether the Claimant was required to travel or whether he decided to do so on his own. This factual dispute was not resolved on the property and, as an appellate body, the Board is unable to resolve it. Accordingly, the claim must be dismissed.

AWARD

Claim dismissed.

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 23rd day of August 1999.