Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37527
Docket No. SG-36657
05-3-01-3-183

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of C. F. Parker and F. J. Mancini for payment of $136.62 each. Claim on behalf of S. R. Buck for payment of $152.87. Claim on behalf of V. T. Palmer for payment of $170.62. Claim on behalf of S. T. Carolan for payment of $201.62. Account Carrier violated the current Signalmen's Agreement, particularly Rule 75, when, on various dates in December of 1999 and January and February of 2000 Carrier refused to reimburse the Claimants for the use of their private automobiles. Carrier File No. 1224542. General Chairman's File No. W-75-031-035. BRS File Case No. 11535 UP."

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 five Claimants, all Signalmen or Assistant Signalmen assigned to either Zone Gang No. 2661 out of Salt Lake City or Zone Gang No. 2665 headquartered at Shoshone, Idaho, here claim mileage expenses for a number of days in late 1999 and early 2000 on which they represent they were required to use their own vehicles for Company business. The Carrier denied the claim on grounds that it at no time requested or required any Claimant to use his private automobile in lieu of Company-provided transportation.

Based upon our review of the record in its entirety and for the reasons stated below, the Board concludes that the facts fail to establish a violation of the Agreement and, accordingly, we deny the claim.

Undisputed record evidence indicates that the Claimants were working in Zone Gang No. 2662 at Evanston, Wyoming, in mid-December 1999 when their work location was moved to Brigham City, Utah, some 100 miles distant. According to the statement of Manager Engineering Resources J. Stoner, the Claimants were offered Company-furnished transportation in a five-man van to their new work site, but opted instead to drive their personal vehicles to Brigham City. Stoner's representation was not challenged on this record. The Claimants, according to Stoner, then drove to the new location during normal working hours and were paid as if performing regular service. None of the Claimants, Stoner states, was asked to use his personal vehicle for this move, but chose to do so voluntarily rather than leave them at the Wyoming work site.

The controlling Agreement provision is RULE 75 – PRIVATE AUTOMOBILES, which reads as follows:

> "When employees are requested and are willing to use private automobiles for Company-use, an allowance will be made at the established automobile mileage allowance paid by the company to its employees."

Central to the Organization's case appears to be the argument that because the Claimants were allowed to move their automobiles on Company time they must be considered as having been requested by the Carrier to do so. Additionally, it argues that it would have been unfair for the Carrier to expect that employees should have to leave their cars so far away from their new work location.

Although the line between "request" and "require" may sometimes be a fine one in the employment context, in this particular instance there is little room for confusion as to the reasons why the Claimants elected to move their cars. The record before us offers no evidence establishing that the Carrier requested the Claimants to drive to their new work location, no Agreement language supporting the proposition that accomplishing the move on work time was tantamount to a Carrier request, and no precedent for that rationale. Rather, the Carrier provided transportation for the Claimants on all relevant dates, and the Claimants' decisions to forego the free Company-sponsored van in favor of their own cars insofar as this record is concerned reflected their own personal preferences. With travel accomplished for their convenience and neither at the Carrier's request nor for the furtherance of any Carrier business purpose, Rule 75 does not entitle them to the mileage expenses claimed.

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 23rd day of June 2005.