

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37712
Docket No. SG-37903
06-3-03-3-321**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Kansas City Southern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of B. Stewart, for 16 hours at the straight time rate for travel time and \$323.03 for mileage incurred, account Carrier violated the current Signalmen’s Agreement, particularly Rule 58, when on March 28, 2002, it directed the Claimant to change his headquarters point from Port Allen, Louisiana, to Blue Springs, Missouri, a distance of 885 miles taking 16 hours to travel. The Claimant was required during the workday to use his personal vehicle for the change because the company did not provide transportation, and then Carrier refused to pay for the travel time and mileage incurred. Carrier’s File No. K06025624. General Chairman’s File No. 02-061-KCS-185. BRS File Case No. 12577-KCS.”

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.

By letter dated May 14, 2002, the Organization filed claim alleging that the Carrier violated Rule 58. It argued that the Claimant was headquartered at Port Allen, Louisiana, and was required to report to his new headquarters point at Blue Springs, Missouri. The claim alleges failure of the Carrier to properly pay the Claimant for the travel time and mileage.

As in Third Division Award 37713, the Organization maintains that the distance between the two points, or 885 miles, with 16 hours travel time is to be compensated under Rule 58. The Carrier argues that the Claimant was released from duty at Port Allen, Louisiana, on March 28 and required to mark up the following Monday, April 1, 2002 at Blue Springs, Missouri. The Carrier denied the claim on the property because the Claimant would have traveled 755 miles to return to Port Allen from his residence in Peculiar, Missouri, but only 33 miles from his residence to get to his new headquarters point of Blue Springs, Missouri. Because the distance to the new headquarters point is less than the distance to the old headquarters point, no transportation allowance is due.

As we have previously stated, the Organization's arguments for contending that the Claimant's residence is irrelevant lack probative evidence. There is, as has been the case in prior Awards, no proof that the distance between points has ever been the proper interpretation of Rule 58(b). Nor has the Organization provided in this record any evidence to prove that the Carrier's actions were new, unusual, or that its application of the Rule was previously challenged. The only Award the Board has on this issue supports our view that no mileage reimbursement is due, that this claim is without merit, and that the claim must be denied (Third Division Award 37551).

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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 30th day of January 2006.