

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38141
Docket No. MW-36836
07-3-01-3-404

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Soo Line Railroad Company (former Chicago,
(Milwaukee, St. Paul and Pacific Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed and refused to pay the travel allowance for workdays in the months of April, 2000; and May, 2000 to Special Machine Operator K. W. Eastman as provided in Memorandum No. 12 (System File C-22-00-110-06/8-00319-373 CMP).**
- (2) As a consequence of the violation referred to in Part (1) above, Special Machine Operator K. W. Eastman shall now be compensated for five hundred eighty-five dollars (\$585.00)."**

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.

In April and May 2000, the Claimant was working as a Special Machine Operator headquartered at St. Paul, Minnesota. He operated a Mark III tamper. The Claimant resided in Wabasha, Minnesota, approximately 70 to 80 miles from St. Paul. He commuted to his job in St. Paul each workday and returned to his residence at the end of the workday. The Claimant was not directed to be away from his headquarters in April and May 2000.

On or about March 14, 1991, the parties entered into a Letter Agreement that allowed reimbursement for the actual reasonable cost of meals and lodging for Special Machine Operators who agreed to remain with the position throughout the work season. This Letter Agreement was incorporated into the January 1, 2000 Agreement as Memorandum No. 12. Memorandum No. 12 provides, in pertinent part:

“It is hereby agreed that the Carrier will allow reimbursement for actual reasonable costs of meals and lodging for special machine operators assigned to special machines by bulletin on the condition that the employee will remain with the position throughout the season. . . .

Incumbents of such positions, who are entitled to lodging reimbursement, may elect a \$15.00 travel allowance for each workday he would have otherwise been entitled to lodging reimbursement. . . .”

On February 8, 2000, the parties agreed to Memorandum No. 27 which amended Memorandum No. 12. Memorandum No. 27 allowed Group 1 Rank (a) and Rank (b) Machine Operators assigned to special machines by bulletin the option of reimbursement for meals and lodging in accordance with Award 298, including single occupancy corporate lodging facilities if available, or a \$15.00 travel allowance for each workday he otherwise would have been entitled to reimbursement pursuant to Memorandum No. 12.

The Claimant requested a \$15.00 travel allowance for the 19 days he worked in April and the 20 days he worked in May 2000. The Carrier disallowed his expense account.

On June 29, 2000, the Organization filed a claim on the Claimant's behalf for \$585.00 in travel allowance for April and May 2000. The Carrier denied the claim contending that the Claimant's Production Tamper Operator position was a headquartered position. The Carrier maintains that Special Machine Operator positions that have a headquarters are not entitled to lodging.

Memorandum No. 12 is unambiguous. It provides Special Machine Operators who are assigned to special machines by bulletin the actual reasonable costs for meals and lodging provided they agree to remain on the position throughout the work season. If these Special Machine Operators are entitled to lodging reimbursement, they may elect a \$15.00 travel allowance for each workday they would have been entitled to lodging reimbursement. Obviously, if a Special Machine Operator is not entitled to lodging reimbursement, he is not eligible for the \$15.00 travel allowance. This is condition precedent eligibility for the travel allowance. Memorandum No. 27 did not change this prerequisite.

When the Claimant worked as a Special Machine Operator headquartered at St. Paul, he was not entitled to reimbursement for meals and lodging. Therefore, he was not eligible for the \$15.00 travel allowance provided by Memorandum No. 12. The Claimant commuted to his position from his residence each workday. At no time was he directed to be away from his headquarters. Rather, he started and ended each workday at St. Paul.

Under these circumstances, the Claimant was not entitled to reimbursement for his actual reasonable costs of meals and lodging and was not entitled to a \$15.00 daily travel allowance. The claim is denied as a result.

AWARD

Claim denied.

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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 April 2007.