

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39326
Docket No. SG-38875
NRAB-00003-040569
(04-3-569)

The Third Division consisted of the regular members and in addition Referee Robert E. Peterson 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:

Claim on behalf of E. Jefferson for 6 hours travel time at the straight time rate of pay for the time the Claimant spent traveling to his work location from his original headquarters location during the day prior to reporting for work and his return trip after close of shift on the final day of the Claimant’s work session account the Carrier violated the current Signalmen’s Agreement, particularly Appendix S, and Rules 12, 18, 19, 38, 69, 75 and 80, when the Carrier failed to allow the Claimant 6 hours travel time at the straight time rate of pay. Carrier’s File No. 1374443. General Chairman’s File No. N apx S 35416-S-04. BRS File Case No. 13041-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.

It is the position of the Organization that the Carrier violated the Rules mentioned in the Statement of Claim when, on April 30, 2003, the Manager Signal Construction issued an administrative message in which the Claimant was notified that effective May 6, 2003, his headquarters on Gang 3962 would be changed from West Chicago, Illinois, to LaFox, Illinois. The Organization asserts that notwithstanding the administrative message having stated that the Claimant may exercise his rights under the terms of the Agreement, the Claimant was denied a right of exercise, requiring him to travel from his original headquarters to a new work location and back every work cycle until subsequently permitted an exercise of seniority to a Class 1 signal position.

As a result of the alleged violation, the Organization contends that the Carrier should be required, as claimed, to compensate the Claimant six hours at the straight time rate for time the Claimant spent traveling to his work location from his original headquarters location on the day prior to reporting for work, and his return trip after close of his shift on the final day of his work cycle. During appeal of the claim on the property the Organization sought to amend the claim to include six hours each day between April 30 and July 1, 2003. The Carrier refused to accept such amendment as a major change or difference in the remedy being sought. The Statement of Claim as progressed to the Board does not include the amendment sought by the Organization on the property.

Contrary to the Organization's contentions, the Carrier asserts that the Claimant was not only ineligible under Appendix "S" of the current Agreement for the claimed compensation, but remained working with the same headquartered gang prior to and during the claim period he was an Assistant Signalman and was "rotated out to gain experience" under applicable Rules. At best, the Carrier contends, the Claimant would be eligible for a one-way driving allowance of 21 minutes travel time under the provisions of Section 4(a) of Appendix "S." The 21 minutes said to approximate the driving time of traveling 12 miles to LaFox, Illinois, from West Chicago, Illinois, the latter being the Claimant's initially established and designated

headquarters point and home station on his seniority district as an Assistant Signalman Candidate under the provisions of Section 4(c) of Appendix "S."

Section 4 of Appendix "S" reads as follows:

- "(a) Assistant Signalmen who are required at the direction of management to travel between work locations account their being rotated to gain work experience will be paid travel time at their pro rate for actual time spend traveling including waiting time in route, not to exceed eight hours in any given day. For the purpose of computing time under this provision a day, including rest days and holidays, will be considered as commencing at the normal starting time of the employee's regular assignment.
- (b) Assistant Signalmen, who are required at the direction of management to travel and who are not furnished a means of transportation by the company will be reimbursed for the cost of any authorized public transportation. If an employee is authorized to use his/her personal vehicle for transportation, he/she will be paid an allowance at the authorized rate per mile for normal roadway travel miles by the most direct route.
- (c) Each Assistant Signalman and Assistant Signalman Candidate will be designated a headquarters point and home station on his/her seniority district which will remain unchanged until they have completed the training program and have been promoted to a Class 1 position. Assistant Signalmen and Assistant Signalman Candidates who request a change in the headquarters assignment or who exercise their seniority in a normal manner to acquire a position at another location will do so without expense to the carrier and will assume the expense of per diem rules applicable to their new assignment. Assistant Signalmen and Assistant Signalman Candidates who are rotated to gain the required work experience will assume the hours of service, the general working conditions, and expense or per diem rules, if any, of employees or gangs to which they are assigned. When Assistant Signalmen or Assistant Signalman Candidates are

assigned o work with an employee who is assigned a fixed headquarters location away from their assigned headquarters, they will be reimbursed for actual necessary expenses incurred.”

As concerns application of Appendix “S” to the claim, the Board notes the following excerpt from a July 13, 2004 Carrier letter to the General Chairman:

“An assistant will be compensated under the provisions of sections (a) and (b) for their initial change from their headquarters to their new work location. Once the assistant arrives at the new headquarters location they assume the allowances of the type of gang to which assigned. If the assistant is assigned to a headquartered gang he will receive actual and necessary expenses or if assigned to a zone gang he will assume the provisions of Rule 36. The allowance paid under sections (a) and (b) will only be provided to an assistant only once, not on a repeated basis.”

The Board finds merit in the Carrier’s argument as concerns application of Appendix “S” to an Assistant Signalman Candidate during a training/qualification program, which is said by the Carrier to consist of four 1,040 straight time hour periods of service. However, in the instant case, the Board is not persuaded by the Carrier’s argument that the April 30, 2003 administrative message from the Manager Signal Construction to the Claimant be viewed as having been for the purpose of rotating him out for training. The message makes no mention of a change in headquarters location being made for the purpose of rotating the Claimant out for training. Rather, it specifically directs the Claimant exercise his rights under Agreement account his headquarters location being changed, or, as the Organization maintains, indicates a permanent change of headquarters and residence. Further, nothing of record shows that at the time of the claim (April 30, 2003) the Claimant had not completed the requisite and above referenced periods of service as an Assistant Signalman Candidate in support of the Carrier contention that the Claimant was being rotated for training purposes.

In the particular circumstances of the instant case, the Board finds that the claim must be sustained to the extent of allowing payment, as claimed, of six hours travel time for traveling to a work location from his original headquarters location during “the day prior” to reporting for work. The Board will therefore hold that the

Claimant be allowed six hours pay at the straight time rate of pay for one day only.
The balance of the claim is denied.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 29th day of September 2008.