

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39513
Docket No. SG-38932
09-3-NRAB-00003-050364
(05-3-364)

The Third Division consisted of the regular members and in addition Referee Lisa Salkovitz Kohn 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 K. I. Walker, for \$130.00 in expenses, account Carrier violated the current Signalmen's Agreement, particularly Rule 36, when it changed the Claimant's work schedule in violation of Rule 36 which caused the Claimant to incur the additional expense of changing his airline reservations on April 22, 2004. Carrier's File No. 1401935. General Chairman's File No. W-36-406. BRS File Case No. 13181-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.

At the time this dispute arose, the Claimant was assigned to a signal position on Zone Gang 6431 (Zone 3). On April 21, 2004, the Carrier changed the Claimant's report-to-work date from the regular date of May 4 to May 2. The Claimant had asked his Foreman twice on April 20 whether his next work cycle would be back on the normal eight day on/six day off schedule, and was told twice that it would. That evening, the Claimant purchased his airline tickets to travel home and return, assuming the normal work schedule. As a result of the subsequent schedule change, the Claimant incurred an additional charge of \$130.00 to change his "non-refundable" airline reservation in order to return to work early as directed. The Carrier refused to pay the Claimant that amount.

On June 9, 2004, the Organization filed a claim on behalf of the Claimant for the \$130.00 cost of changing his ticket, charging that the Carrier violated Rule 36 of the Agreement by failing to reimburse the Claimant's additional costs, because it was the Carrier's late notice of the changed work schedule that forced him to change his airline reservation at a cost of \$130.00. The Claimant is party to a separate claim for additional compensation due to the Carrier's alleged failure to provide him and others with the guaranteed four rest days.

Rule 36 provides, in pertinent part, that:

"Employees will receive \$9.00 for every twenty five (25) miles traveled from home to work at the beginning and end of each work period. The Carrier will give employees notice of work schedules and locations, except in emergency circumstances, so they can plan their travel."

In Third Division Award 39514, we held that the Carrier did not violate Rule 36 by requiring the Claimant and other members of his gang to report to work early on May 2. In this case, it is undisputed that the Carrier paid the Claimant the travel allowance required by Rule 36. However, under Rule 36, the Carrier also is required to give employees notice of work schedules and locations "so they can plan their travel." The Organization contends that because the Claimant relied on information

provided by his Foreman in making his original travel plans, he is also due reimbursement of the ticket change charge necessitated when the Carrier's plans changed.

The Carrier responds that the Claimant is free to choose his mode of travel between home and work, and the Carrier is not required by the Agreement to compensate the Claimant, beyond the Rule 36 travel allowance, for his particular choice of travel or for losses he incurs as a result of his choice.

The Board is persuaded that the Carrier's interpretation of the facts and Rule 36 is correct. The Rule 36 travel allowance is the only compensation that was due to the Claimant for his travel. The Claimant was given 11 days notice of the schedule change, ample time to have made travel arrangements without penalty. The Carrier is not responsible for the Claimant's decision to purchase non-refundable tickets in advance.

As the Second Division noted in its Award 157,

"We can only interpret the rules and the agreements as they are made. In doing so, we must look to the common ordinary meaning of the words used. We cannot ascertain hidden and secret meanings which are not expressed and which cannot be proved."

Nothing in the language of Rule 36 entitles the Claimant to the relief sought, and the Organization cited no other authority or evidence that supports the interpretation it proposes. Accordingly, the claim must be denied.

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 2nd day of February 2009.