

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42946
Docket No. SG-43877
18-3-NRAB-00003-160674**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of behalf of the General Committee of the Brotherhood that:

Claim on behalf of R. Erler, W.R Kanouse, A.R Keith, Z. Kimbro, and M.W. Rowe; Claimants Erler, Kanouse, and Rowe for seven hours of overtime each; and Claimants Keith and Kimbro for six hours of overtime each; account Carrier violated the current Signalmen’s Agreement, particularly Rule 15, when, from May 23-25, 2015, and from June 2-5, 2015, it refused to compensate the Claimants one hour of overtime for each day they were denied compensation for their second meal period after working more than 10 hours. Carrier’s File No. 2015-190182. General Chairman’s File No. 15-20-15. BRS File Case No. 15467-B&O.”

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 Organization filed the instant claim on behalf of the Claimants, alleging that the Carrier violated the current Signalmen's Agreement when it failed to compensate the Claimants for one hour of overtime for each day during May and June 2015 that they were not compensated for a second meal period after working more than ten hours. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because Rule 15 provides that employees who work more than ten hours are entitled to a second meal period that is to be paid as time worked, because the Carrier ignored Rule 15 and the established historical practice of compensating employees with one hour of overtime at the conclusion of a twelve-hour shift for the second meal period, and because the Claimants improperly were denied their second meal period on the cited dates during May and June 2013. The Carrier contends that the instant claim should be denied in its entirety because the Agreement language does not support the requested remedy, because there is no governing past practice, because the Organization has failed to meet its burden of proof, and because there was no violation of Rule 15 of the Agreement.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the record in this case, and we find that the Organization has met its burden of proof that the Carrier violated the Agreement when it failed to compensate the Claimants for one hour at the overtime rate for their second meal period each day they were required to work for more than ten hours after starting work. Therefore, this claim must be sustained.

This case involves Rule 15, entitled Second Meal Period. It states the following:

"Employees shall not be required to work more than ten (10) hours after starting work without being permitted to take a second meal period. They shall also be permitted to take meal periods at 4-hour intervals thereafter until released. These meal periods shall be of reasonable duration and shall be paid for as time worked. Employees shall be reimbursed for the second and subsequent meals referred to in this paragraph if the meals are not furnished by the Company."

Consequently, it is clear that if an employee works more than the ten hours, he or she is entitled to a second meal period. That meal period must be of “reasonable duration,” but it is guaranteed under Rule 15.

Although the Carrier takes the position that a 20-minute or 30-minute meal period would be sufficient, the Carrier has submitted no evidence other than its argument on that point. On the other hand, the Organization has come forward with a number of work records that show an extra hour of time at the overtime rate being given to the employee, as well as several statements from a number of employees who stated that when they worked more than ten hours, they were allowed to have a one hour paid meal period at the overtime rate. We find that one hour for a meal is not unreasonable as the Carrier tries to argue.

Since the Organization has presented sufficient evidence to support its case, it has met its burden of proof. Therefore, the Board has no choice but to sustain this claim.

AWARD

Claim sustained.

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 14th day of February 2018.