

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43805
Docket No. SG-44864
19-3-NRAB-00003-180345**

The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.

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

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation (formerly Baltimore & Ohio):

Claim on behalf of T.P. Fillman, for \$703.82 [703.08] in mileage reimbursement and 14 hours at his straight-time rate of pay (\$450.38), account Carrier violated the current Signalmen’s Agreement, particularly DSXT Labor Agreement No. 15-55-99, Section C-2 when on September 11 and 23, 2016, it refused to compensate the Claimant the mileage expense and travel time he incurred in his personal vehicle while traveling from his residence in Stonecreek, Ohio, to Carrier’s training facility in Atlanta, Georgia, and then back to his residence. Carrier’s File No. 2016-213630. General Chairman’s File No. 16-24-99. BRS File Case No. 15819-B&O. NMB Code No. 37”

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.

This is a dispute about reimbursement for mileage and travel time for employees who attend Carrier training. The parties addressed this issue in CSXT Labor Agreement No. 15-55-99, Apprentice Training Program. Section C.2 reads:

“Transportation to and from the training location will be provided by or paid for by the Carrier. Employees traveling less than 300 miles one way or 600 miles round trip will receive per diem for meals and the current mileage reimbursement rate if they use their own vehicle. Employees who will have to travel over 300 miles one way or 600 miles round trip will be provided pre-paid airfare or mileage reimbursement and travel time from their residence. When driving, travel time will be paid at the rate of one (1) hour for every fifty (50) miles in excess of 300 miles each way. The Carrier will work with BRS in special circumstances.”

The Claimant is assigned to the Baltimore & Ohio (B&O) Railroad Company System Construction Signal Gang 7X15. On September 11, 2016, he drove his personal vehicle from his home in Stonecreek, Ohio, to the CSXT REDI Training Center in Atlanta, Georgia, a distance of 671 miles, to attend ASW-4 Training. Claimant made the return trip home on September 23, 2016. When Mr. Fillman attempted to submit an expense report for mileage reimbursement plus travel time of seven hours in each direction (per Section C.2, one hour for every 50 miles in excess of 300), the Carrier refused, on the basis that it would reimburse him only up to the cost of a plane ticket from the closest airport, Pittsburgh, Pennsylvania, which was substantially less.

According to the Organization, Claimant was entitled to mileage reimbursement and travel time under the clear and unambiguous provisions of Section C.2. Nothing in that provision requires employees to fly instead of drive, plus Claimant was not provided with pre-paid airfare. Moreover, the Claimant submitted a doctor's note verifying that he had a medical condition that prevented him from flying. Because Claimant was required to drive in order to attend the training, he is entitled to be reimbursed for his mileage and travel time.

The Carrier responds that it has been the policy for several years that employees who are attending training more than 300 miles away are provided with pre-paid airfare or, if they choose to drive, are reimbursed up to the amount of the pre-paid airfare but not more. On August 17, 2016, the Claimant contacted the Staff Engineer in charge of travel arrangements, Denise Wilder, and expressed a preference for driving, due to an unspecified "medical condition." She told him that the cost of round-trip airfare was \$257.00, or about 485 miles for mileage reimbursement. The Claimant did not provide his doctor's note until after the training began, and the Carrier's medical department did not have an opportunity to determine for itself before the training whether Claimant could fly or not. He was properly reimbursed the cost of airfare, which is all he was entitled to.

The record includes an e-mail from the Claimant to Denise Wilder, dated August 17, 2016, that reads, "Hey I would like to drive to Atlanta. I can't fly due to a medical condition. Closest airport to me is Pittsburg [sic] airport." Wilder responded, "... The cost of a roundtrip nonstop flight is \$257 which equates to 485 roundtrip miles for mileage reimbursement." She did not address Claimant's assertion that he could not fly for medical reasons. There is no evidence in the record of further communication between the Claimant and anyone on the Carrier side about his travel plans to Atlanta.¹ The record also includes a copy of the instructions sent to employees about travel plans to the REDI Center in Atlanta:

"Travel

Upon receiving these reporting instructions, you must immediately contact Denise Wilder for flight reservations.

If it is agreed upon between you and your manager for you to fly, a pre-paid ticket will be purchased on your behalf.

¹ The record includes an e-mail string dated August 15-16, 2016, regarding whether the Claimant had been "notified," presumably that he was scheduled for the training that would start September 12, 2016. Bob Cotter wrote: "I did notify Todd Fillman by email and will speak to him in person today or tomorrow." There is no evidence in the record indicating that that conversation occurred or if it did, what was discussed. In the email correspondence among management officials regarding Mr. Fillman's claim for reimbursement, Item #9 states "... James Bell notified and discussed travel expenses with Mr Fillman." There is no evidence of that conversation in the record.

**You must contact Denise Wilder and provide the following information:
Full Legal Name, Date of Birth and closest Major Airport to your house*
If you are going to be flying to Atlanta, mileage to and from your
originating airport, parking, and up to two pieces of luggage (maximum
weight up to 50 lbs each) will be reimbursed.**

Note: CSX is not responsible for damaged or loss of luggage

**You are responsible for contacting your manager to ascertain that all
travel arrangements have been finalized no later than 15 days prior to
your travel.**

**Remember: Your flight should be scheduled to arrive in Atlanta the day
immediately prior to your class start date BETWEEN 10:00 a.m. and 3:00
p.m. Return flights should be scheduled to depart Atlanta AFTER 3:00
p.m. on the LAST day of class.**

**Please print these Reporting Instructions and your flight itinerary to assist
you in your travels*”**

The Carrier contends that it has been the policy for years that employees who live more than 300 miles from where they are required to report for training are provided with pre-paid airfare and if they drive instead, they are only reimbursed for the equivalent cost of airfare. The Claimant was reimbursed the cost of roundtrip airfare from Pittsburgh, Pennsylvania, to Atlanta, Georgia. As this case illustrates, the Carrier’s policy makes economic sense: the airfare was \$257, while Claimant’s mileage and travel time were significantly higher, over \$1100. As the party responsible for paying employees’ expenses to attend training, the Carrier understandably has an interest in keeping costs low.

But the Board is charged with interpreting whether the Carrier’s policy is consistent with Section C.2 of CSXT Labor Agreement No. 15-55-99, not whether it is cost-effective for the Carrier. The relevant language states:

“Transportation to and from the training location will be provided by or paid for by the Carrier. . . . *Employees who will have to travel over 300 miles one way or 600 miles round trip will be provided pre-paid airfare or mileage reimbursement and travel time from their residence. . . .* (Emphasis added.)”

There is no language in Section C.2 that indicates that employees have to travel the cheapest way possible. Nor is there language that reserves to the Carrier the right

to determine how employees should travel. The language states simply that employees who have to travel over 300 miles one way “will be provided pre-paid airfare *or* mileage reimbursement and travel time from their residence.” (Emphasis added.) The Carrier is certainly entitled to implement a travel policy that strongly encourages employees to fly but the language of Section C.2 does not support an interpretation that the choice of travel modes is solely up to the Carrier. Moreover, the travel policy issued by the Carrier is not clear that employees who live more than 300 miles from the training center *must* fly. The first sentence directs employees to contact Ms. Wilder about flight reservations. But the second sentence leaves open the possibility that employees may drive instead of fly: “*If it is agreed upon between you and your manager for you to fly*, a pre-paid ticket will be purchased on your behalf.” (Emphasis added.) The opening phrase “If it is agreed upon...” implies that the employee and the manager may *not* agree on the employee’s flying, in which case the employee would drive instead.

The issue is further complicated in this case by the Claimant’s assertion in his August 17, 2016, email to Denise Wilder that he had a medical condition that prevented him from flying. Certainly the Carrier would not insist that someone fly under such a circumstance. The Claimant explained to Ms. Wilder that that was the reason for his request to drive. Ms. Wilder, however, did not ask Claimant for additional clarification or to submit a doctor’s note, nor did she inform him that he would have to fly anyway or that if he drove he would not be reimbursed for his full mileage and travel time. The Carrier was notified nearly four weeks in advance of when the Claimant would need to travel of his claim that he was limited by medical circumstances to driving. But it did not notify the Claimant that it would not accept his mere assertion or that he needed to bring in a doctor’s note that could be verified by the Carrier’s own medical department before it would reimburse him his full mileage expenses and travel time. The Carrier notes that the Claimant did obtain a doctor’s note, but he did not present it to the Carrier until he was already at the training center, when it was too late for the note to be verified by its own medical department. That problem could have been avoided if the Carrier had responded to the Claimant’s initial notice to it of his limitations.

Nowhere does the language of Section C.2 state that employees who drive will only be reimbursed up to the cost equivalent of roundtrip airfare, and the Carrier may not unilaterally modify what the parties agreed to.² Under the circumstances of this case,

² The Board notes that Section C.2 offers a possibility for compromise in circumstances like this, where the cost of driving is so significantly higher than flying. The last sentence reads: “The Carrier will work with BRS in special circumstances.”

where the Claimant notified the Carrier that he was unable to fly for medical reasons and the Carrier failed to respond, it was reasonable for the Claimant to assume that if he drove, which was the only alternative to flying, he would be reimbursed for his mileage and his travel time. The Board notes, however, that Claimant was previously reimbursed up to the amount of the roundtrip airfare between Pittsburgh and Atlanta, and that amount should be deducted from the expenses he originally submitted.

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 16th day of July 2019.

The parties could have looked at alternatives to the Claimant's driving himself, such as his taking a train.