

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44195  
Docket No. SG-45440  
20-3-NRAB-00003-190194**

**The Third Division consisted of the regular members and in addition Referee Paul S. Betts when award was rendered.**

**PARTIES TO DISPUTE: (**  
**(Brotherhood of Railroad Signalmen**  
**(Union Pacific Railroad Company**

**STATEMENT OF CLAIM:**

**“Claim on behalf of R. Storbeck, for removal of the Rule 80.1 e-ramp violation from his record, \$544.86 for mileage, \$60.00 for meal expenses, and 18.75 hours at his straight-time rate of pay for travel time; account Carrier violated the current Signalmen’s Agreement, particularly Rules 55, 57, and 65, when it failed to provide the Transcript of the Unjust Treatment Hearing held on August 18, 2017, and failed to compensate the Claimant for the expenses he incurred in traveling. Carrier's File No. 1694997. General Chairman's File No. S-55, 57, 65-1673. BRS File Case No. 15991-UP. NMB Code No. 32.”**

**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 the instant claim, the Organization alleges the Carrier violated the Agreement when it failed to provide the transcript of an Unjust Treatment Hearing that was held**

on August 18, 2017. The Unjust Treatment Hearing was requested after the Claimant was provided coaching by his Manager on May 18, 2017, regarding a trip hazard.

The Organization argues a) the Carrier committed a procedural error by failing to provide the Organization or Claimant with a transcript of the Unjust Treatment Hearing, b) although the Organization requested the Unjust Treatment Hearing be held in Texas (closer to the Claimant's residence), the Carrier scheduled the hearing in Missouri, requiring the Claimant to incur unreasonable expenses, and c) the Claimant was unjustly treated.

The Carrier argues a) although the Carrier granted the request for an Unjust Treatment Hearing, the initial request for the hearing was untimely, b) the Claimant was not unjustly treated, as he was not accused of or charged with a rule violation but was simply coached by his Manager, c) the Agreement does not mandate the Carrier provide a transcript of an Unjust Treatment Hearing, d) the Organization failed to satisfy its burden of proof, and e) the Claimant is not entitled to the demanded remedy.

Rule 57 of the Agreement states the following:

**"An employee who considers himself unjustly treated, other than covered by these rules, will have the same right of hearing and appeal as provided in Rule 55 B if written request is made to his immediate supervisor within ten (10) calendar days of cause of complaint. Failing to dispose of the complaint in such hearing, appeal may be taken in accordance with Rule 56..."**

After a thorough review of the record, the Board agrees with the Carrier in that the initial request for the Unjust Treatment Hearing was untimely. The incident giving rise to this claim occurred on May 18, 2017. The request for the Unjust Treatment Hearing was provided to the Carrier on July 18, 2017, well outside the ten-calendar day window of Rule 57. Although the Carrier conducted the Unjust Treatment Hearing, the initial request for the Unjust Treatment Hearing was none-the-less untimely. As a result, the claim is hereby denied.

Although the Board may not have repeated every item of documentary evidence, nor all the arguments presented, we have considered all the relevant evidence and arguments presented in rendering this Award.

**AWARD**

**Claim denied.**

**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 30th day of September 2020.**