

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 44420
Docket No. MW-43419
21-3-NRAB-00003-200400

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

(Brotherhood of Maintenance of Way Employes Division
(IBT Rail Conference

PARTIES TO DISPUTE: (

(BNSF Railway Company (Former Burlington Northern
(Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier recouped compensation previously issued to Messrs. C. Young, S. Interial, D. Reynolds, A. Roman, T. Newlander, J. Reidner, J. Blanks and J. Chesnek in connection with their attending Leadership training prior to the January 6, 2014 scheduled gang start-up date of RSG Gang TTPX0012 (System File T-D-4516- M/11-15-0064 BNR).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants C. Young, S. Interial, D. Reynolds, A. Roman, T. Newlander, J. Reidner, J. Blanks and J. Chesnek shall each be compensated ‘ ... for what he is owed for his trips on January 2, 2014 and January 3, 2014, (may include Jan 1-5) less the monies that the Carrier has already paid the claimant, incorrectly.’”

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 Carrier operates large mobile production gangs across its territory to perform major repair and replacement work that is programmed in advance. These production gangs may have more than thirty different positions and a commensurate number of employees. Operating these gangs safely and efficiently requires considerable coordination and preparation. In order to be ready to start when a gang reports for work at a new location, the Carrier routinely brings key members of the gang in early in order to prepare in advance, in what is called a Gang Start-Up Meeting. Some of the tasks performed in advance include inspecting equipment, reviewing gang members' qualifications, ensuring vehicles have proper documentation, preparing medical emergency forms, ordering supplies, and similar items.

The parties have negotiated provisions for travel costs, meals and lodging for employees who are required to work away from home in Rule 38 of their Agreement. Section I addresses Mobile Headquarters (With or Without Outfit Cars)—Lodging—Meals. Section II addresses Week-End Travel Allowance. Rule 35 addresses Travel Time: “G. (1) Employees filling relief assignments or performing extra or temporary service will be paid for travel and waiting time as follows:” [text omitted]

The Carrier assigned the Claimants to report to Jasper, Alabama, on January 2, 2014, prior to the scheduled startup of Regional System Gang TTPX0012 on January 6, 2014. Initially, Claimants were compensated for travel time and mileage per Rule 35. Subsequently, the Carrier determined that Claimants should have been paid pursuant to Rule 38. H. It deducted the difference from Claimants' paychecks on August 15, 2014, and the Organization filed this claim. The Organization contends that Claimants should have been paid under Rule 35: they were reporting for Leadership Training, which was “extra or temporary service,” not part of their routine job duties. The Carrier acknowledges that the Claimants were required to report early for the new gang, but contends that such early reporting is common and the travel routinely compensated as regular one-way gang startup travel. The record

includes statements from a number of managers attesting to the routine start-up tasks that gang members who report early perform and to the fact that early reporting has been compensated as regular work in the past, not as extra or temporary service.

The Board has addressed this issue before. If the Claimants were engaged in Leadership Training when they were required to report early, that would be “extra or temporary service.” The burden is on the Organization to establish that fact. The record, however, does not establish that Leadership Training was all or even a significant part of what the Claimants did when they reported early. The Carrier keeps records of the time employees spend in training. The Claimants’ payroll records show that they were paid for regular work (Pay Code 01) and not for any training (Pay Code 06).

Ultimately, the record fails to support the Organization’s position that the Claimants were engaged in Leadership Training when they were required to report early prior to the start of Regional System Gang TTPX0012. Accordingly, the Carrier did not violate the Agreement when it recalculated their compensation as regular one-way gang startup travel and recouped the difference.

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 13th day of April 2021.