

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44578
Docket No. MW-43964
22-3-NRAB-00003-200831**

The Third Division consisted of the regular members and in addition Referee James M. Darby when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**

PARTIES TO DISPUTE: (
(BNSF Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed and refused to properly compensate Messrs. G. Chavez, F. Martinez, J. Cordova, G. Garcia and R. Anaya for overtime service performed on March 25, 2015 (System File 20-SF32-153/14-15-0269 ATS).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants G. Chavez, F. Martinez, J. Cordova, G. Garcia and R. Anaya must now each be compensated for two (2) hours of triple time, totaling (\$174.54) for Mr. G. Chavez, (\$171.48) for Mr. F. Martinez, (\$180.42) for Mr. J. Cordova, (\$173.58) for Mr. G. Garcia and (\$162.54) for Mr. R. Anaya for workday of March 25, 2015 because the Carrier failed to comply with Rule 32(e) of the current Agreement.”**

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.

Rule 32(e) of the Agreement allows for a triple time penalty payment when employees work more than six hours since their first meal without being provided a subsequent meal. The triple time penalty is calculated at three times the rate of pay and the Organization is requesting two hours of triple time pay for each Claimant.

The record shows that on March 25, 2015, the Claimants' worked more than six hours since their first meal. Roadmaster Delk expressly instructed them that they should inform him or one of his reporting employees if they were getting close to the requirement for a subsequent meal, so a meal could be provided. However, Claimants did not follow these instructions. Rather, they failed to notify Delk of the meal issue and subsequently submitted the instant claims for triple time. Because the Organization has failed to satisfactorily rebut the Carrier's evidence that it provided the Claimants a process for receiving a second meal within the six-hour time frame, the claim must be denied.

Accordingly, for all these reasons the claim is denied.

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 29th day of October 2021.