

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44635
Docket No. MW-44250
22-3-NRAB-00003-210224**

The Third Division consisted of the regular members and in addition Referee I. B. Helburn when award was rendered.

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

PARTIES TO DISPUTE: (

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

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 Mr. J. Cline for travel time and mileage per Rule 35 in connection with his being required to report to a temporary relief position on Gang RP12 at Stampede, Washington from a position on Gang RP09 at Blum Texas (sic) on November 6, 2015 through November 9, 2015 (System File S-P-2021-G/11-16-0112 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant J. Cline shall ‘... be allowed 67.9 hours, 2037 miles paid at the current government rate and all benefits that the claimant did not receive because of these violations.’”**

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.

Mr. J. Cline has established and maintains seniority in the Carrier's Maintenance of Way and Structures Department. From November 6-9, 2015, Mr. Cline traveled from a relief assignment on System Gang TP09 in Blum, TX two thousand thirty-seven (2,037) miles to a relief assignment in District 100 Steel Gang RP12 in Stampede, WA. in his personal vehicle. The Carrier, explaining that in its view Mr. Cline did not own a permanent assignment but was working short-term vacancies from a furloughed status, views the travel as a consequence of the equivalent of being recalled to a permanent assignment from furlough. On this basis, travel time and mileage were denied, resulting in a timely filed and processed claim. Thereafter, the claim was progressed to this Board for final and binding adjudication.

Asserting that the claim should be sustained, the Organization relies on the language of Rules 9, 35.B and 35.G.(1). On-property awards support the position taken. Clearly, the Claimant traveled to a then temporary assignment and there was no voluntary recall because the Claimant would have lost his seniority if he had failed to appear as directed. Moreover, the Carrier has stated that the Claimant was filling relief. There is no factual dispute. Carrier documents show that the Claimant was neither furloughed nor recalled during October and November 2015, but was performing relief service on TP013.

In urging a denial or dismissal of the claim, the Carrier sees the Claimant's travel to Stampede, WA as the result of a voluntary seniority move that does not entitle him to travel time and mileage. Moreover, the Organization has not established a violation of Rule 35.F and the Claimant has not filed a travel form.

This Board has carefully considered the record and finds that the Organization has not met its required burden of proof.

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 15th day of December 2021.