

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45452
Docket No. MW-48020
25-3-NRAB-00003-220692**

The Third Division consisted of the regular members and in addition Referee Michael Capone when award was rendered.

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

PARTIES TO DISPUTE: (
(Illinois Central Railroad

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to properly compensate Mr. F. Owens at the applicable time and one-half rate and double time rate of pay for travel to attend mandatory training in Tinley Park, Illinois on November 10, 2019 and his return trip home on November 15, 2019 [System File 19 11 11 (001)/IC-BMWED-2020-00001 ICE].**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant F. Owens shall now “*** be allowed thirteen (13) hours at the time and one-half rate for a Foreman on November 10, 2019, and seven (7) hours’ time and one half, and four (4) hours double time on November 15, 2019 for his return trip home which totals \$1256.66 minus what he was already compensated.””**

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.

On June 8, 2020, the Organization filed its claim on behalf of the Claimant, Track Inspector Frank Owens, Jr., asserting that the Carrier violated the Agreement when it failed to properly compensate him for travel time between Ruth, Mississippi and Homewood, Illinois on his rest days of November 10 and 15, 2019, to attend mandatory training. It alleged that Rule 25 – Overtime, requires the Carrier to pay the Claimant time and one-half and double time rate of pay in addition to the eight hours of compensation he received for each day. The Carrier denied the claim on February 24, 2020 asserting that paragraph D of Appendix I – Student Employee Training Program does not provide for overtime for travel on rest days. Following a conference and subsequent communications through January 2022, a resolution was not reached. The Organization filed its notice of intent with the Third Division.

The claim is now properly before the Board for adjudication.

The Board does not find evidence of a procedural error that would negate a review of the merits. The following contract language from Rule 25 is relevant to the dispute.

RULE 25 – OVERTIME¹, in pertinent part, reads as follows:

- (a) Except as provided in paragraph (c) of this rule, time worked, preceding or following and continuous with the regular eight (8) hour work period (exclusive of meal periods), shall be computed on the actual minute basis and paid for at time and one-half rates with double time computed on actual minute basis after sixteen (16) continuous hours of work in any twenty-four (24) hour period, computed from the time the continuous work period commences, with the exception that all time during the employees' regular shift will be paid for at the pro rata rate.

Examples:

No. 1: 7 a.m. to 4 p.m. regular assigned work period:

¹ Rule 25 is reproduced from pages 3 through 5 of the Organization's submission.

“Employee called 4:00 a.m. and worked continuously until 11:00 p.m. Employee would be paid eight hours pro rata, eight hours time and one half and two hours double time.

No. 2: 7 a.m. and 4 p.m. regular assigned work period:

Employee called at 6:00 p.m. and worked continuously until 8:00 p.m. the following day. The employee will be paid eight (8) hours straight, ten (10) hours at time and one half and seven (7) hours at double time.

*** * ***

- (c) Where overtime work is needed to be performed prior to continuous with or following a regular assignment or on a rest day or holiday, such overtime will accrue to the incumbent of the position who would normally be assigned to perform such work.**
- (d) Employees required to work in excess of forty (40) straight-time hours in any workweek shall be paid therefore at the rate of time and one-half, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furlough list, or where days off are being accumulated under paragraph (g) of Rule 19 - 40-Hour Workweek.**
- (e) Employees worked more than five (5) days in a work week shall be paid one and one-half times the basic straight-time rate for work on the sixth and seventh days of their workweeks, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furloughed list, or where days off are being accumulated under paragraph (g) of Rule 19 - 40-Hour Workweek.**

*** * ***

- (g) All employees will be allowed time at the rate of time and one-half time for services performed continuous with an in advance of regular work period.**

* * *

The Board finds that the Organization has not met its burden of proof with substantial evidence that the Carrier violated Rule 25. The provision does not sufficiently address travel time on rest days for training purposes. Arbitral precedent has established that without substantial evidence, we cannot accept assertions and allegations alone to sustain a claim.

The Carrier's assertion that Appendix I applies to the dispute is not supported by the record. There is no evidence that the Claimant was attending the training as an applicant for a "specific position" in order "to bid on future openings".

The clear and unambiguous language of Rule 25 applies to overtime related to work time and not travel time. Where the plain meaning of a provision applies to a dispute, the Board need not consider extrinsic evidence such as a mutually accepted past practice. Were the Board to find it necessary to review such a customary practice, we find the single statement from an employee insufficient.

Rule 25 does not contain any provision that provides overtime for travel time. Paragraph (a) applies to overtime for ". . . time worked preceding or following and continuous with the regular eight (8) hour work period. . .". Nothing in the record equates travel time on a rest day to regular work time. Nor is there evidence that the travel time was continuous with the Claimant's regular assignment.

Paragraph (c) applies to "overtime work . . . to be performed prior to continuous with or following a regular assignment or on a rest day . . . such overtime will accrue to the incumbent of the position who would normally be assigned to perform such work". Here also there is no evidence that travel time is "work" nor did the Claimant perform work "continuous with or following a regular assignment or on a rest day".

Both paragraphs (d) and (e) of Rule 25 exclude overtime for an employee "moving from one assignment to another". The plain meaning of the provisions applies to the Claimant who was traveling to a training assignment and not connected to his regular work hours.

Paragraph (g) does not apply to the facts presented. It addresses overtime for "services performed continuous with an [sic] in advance of [sic] regular work period." Even if travel time was eligible for overtime pay, the Claimant was not performing

services continuous or in advance of his regular work period.

The Board finds no on-property arbitral precedent that provides a probative or persuasive interpretation of Rule 25 that would be contrary to our findings here. We find the awards cited by the Organization to be distinguishable where they specifically cite contract language relating to travel time. Moreover, the Board finds a lack of clarity in the contract language relied on in those awards when compared with the applicable Agreement language here.

Based on the foregoing, the Board finds that the record lacks the requisite substantial evidence that the Carrier violated Rule 25 of the Agreement.

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 3rd day of April 2025.