

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4768

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILWAY COMPANY

AWARD NO. 67

Carrier File No. 7 MWA 92-02-26

Organization File No. C-92-T075-20

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier failed and refused to properly compensate [18 Claimants] for travel time incurred traveling to and from welder training school on various dates in September, October, November and December, 1991.

2. As a consequence of the above stated violation, [the] Claimants shall each be allowed the appropriate remedy specified in the initial claim letters filed on their behalf.

FINDINGS

The Claimants were assigned at various dates to attend 10-day welder training classes at the Carrier's technical training center in Overland Park, Kansas. The Claimants traveled to and from the training center by use of their personal automobiles or by a combination of their personal automobiles and air travel. The Carrier undertook to pay the Claimants for time actually spent in travel, as provided in Rule 35A. It is the Organization's contention that this was inadequate and that the Claimants should have been paid

for use of their private automobiles at the rate of two minutes per mile, as provided in Rule 35G.

Rule 35, Travel Time, reads in pertinent part as follows:

A. Employees not in camp cars and other than those covered by Section G hereof will be allowed straight time for actual time waiting or traveling as passengers by passenger train or other public conveyance by the direction of the Company, during or outside of regular work period including travel on rest days or holidays, either on or off an assigned territory. . . .

G. (1) Employees filling relief assignments or performing extra or temporary service will be paid for travel and waiting time as follows:

(2) If the time consumed in actual travel, including waiting time enroute, from the headquarters point to the work location, together with the necessary time spent waiting for the employee's shift to start, exceeds one (1) hour, or if on completion of his shift necessary time spent waiting for transportation plus the time of travel, including waiting time enroute, necessary to return to his headquarters point to the next work location exceeds one (1) hour, then the excess over one (1) hour in each case shall be paid for as working time at the straight time rate of the job to which traveled. When employees are traveling by private automobile time shall be computed at the rate of two (2) minutes per mile traveled.

This Board's Award 23 concerned pay for travel time to and from a training program. Travel by private automobile was not an issue therein. Award 23 found that the Claimant was traveling "by the direction of the Company" and that Rule 35A, was applicable. The Carrier, as noted above, does not dispute that the 18 Claimants should receive travel time pay under Rule 35A (as determined in Award 23). The Carrier, however, resists that the concept that Rule 35G is applicable, pointing for support to Award 23.

In Award 31, however, the Board considered another instance of claim for travel time. The claim therein was sustained, based on

"conclusions reached in Award No. 23". Contrary to the assertion of the Carrier here, the Organization's submission in Award 31 specifically referred to the use of a private automobile, the distance traveled, the claim amount at the rate of two minutes per mile, and citation of Rule 35G. Award 31 sustained the full amount of pay claimed, thus indicating that all of Rule 35 was applicable.

In sum, the Board concludes that Awards 23 and 31 determined that travel pay was available to employees involved in traveling to and from Company-directed training programs. This is equally applicable here without distinction as to whether it is Rule 35A or rule 35G which is appropriate for calculating the amount.

A W A R D

Claim sustained. The Carrier is directed to make this Award effective within 30 days of the date of this Award.

*Herbert L. Marx, Jr.*

HERBERT L. MARX, Jr, Chairman and Neutral Member

*Mark J. Schappaugh*

MARK J. SCHAPPAUGH, Employee Member

*D.J. Merrell - I dissent - written dissent to follow.*

D. J. MERRELL, Carrier Member

NEW YORK, NY

DATED:

*April 18, 1995*