

PUBLIC LAW BOARD NO. 2960

AWARD NO. 116
CASE NO. 154

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it required Foreman Lawrence Simburger to travel to Springfield, Illinois for a physical examination and to travel to West Chicago, Illinois for a safety meeting and rules examination when both examinations could have been held at Benld, Illinois. (Organization File 3T-4510; Carrier File 81-84-155).
- (2) Claimant Lawrence Simburger shall now be compensated twelve (12) hours at his straight time rate; eight (8) hours at the time and one half rate, five and one half (5 1/2) hours at the double time rate and one hundred twenty eight dollars (\$128.00) automobile expense (640 miles x \$.20 per mile).

OPINION OF THE BOARD

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and Carrier involved in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

This claim has its genesis in Award 43 of this Board. In that case, the Board ordered the Carrier to reinstate the Claimant without pay for time lost. Pursuant to that Award, which was to be complied with within 30 days, the Carrier, as is customary, directed the Claimant to report for a physical exam, and for a rules examination. The rules examination was in West Chicago and the physical examination was in Springfield.

The Claim seeks compensation for the time involved and reimbursement for mileage. The Organization argues that support for the Claim is found in Rules 25, 30 and 44 which read respectively as follows:

"Employees' time will start and end at a regular designated assembly point for each class of employees, such as the tool hours, outfit car or shop."

"Time worked continuous with and following a regular eight-hour period shall be computed on the actual minute basis and paid for at time and one-half rate, with double time on actual minute basis after sixteen hours of work in any twenty-four hour period computed from starting time of employee's regular shift."

"Employees authorized by the Company to use their private automobiles in the performance of their duties for the Company will be compensated therefore at the prevailing C&NWT mileage rate."

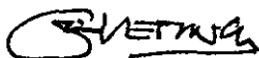
It is the opinion of the Board that the Claim must be denied. First, the Rules cited are ambiguous at best as they relate to these circumstances. Second, there has been no showing that there is a practice to compensate employees for time or expenses spent preparing for their return to work after dismissal. Moreover, the Claimant's return to service was predicated on him successfully passing the required examinations. Accordingly, for, at least, the purposes of compensation rules, he

could not be considered an employee entitled to coverage under the agreement. Simply, the Board has no basis to sustain the claim.

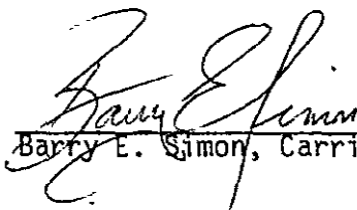
In view of the foregoing, the Claim is denied.

AWARD:

The Claim is denied.



Gil Vernon, Chairman


H. G. Harper, Employee Member
Barry E. Simon, Carrier Member

Dated: April 4, 1986