

PUBLIC LAW BOARD NO. 7096

PARTIES) **BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**
TO)
DISPUTE) **UNION PACIFIC RAILROAD COMPANY (FORMER CHICAGO**
 NORTHWESTERN TRANSPORTATION 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 allow System Tie Gang employees W. Wenninghoff and M. Collins the transportation allowance pursuant to Rule 36, Section 6 in connection with said gang's move of assembly point from Bonner Springs, Kansas to Council Bluffs, Iowa during the first half of September 2003 (System File UPRM-9491T/1383318).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants W. Wenninghoff and M. Collins shall now each receive the transportation allowances in the amount of thirty-four dollars and fifty cents (\$34.50).

OPINION OF BOARD

The relevant provisions state:

RULE 36 - TRAVEL SERVICE

* * *

Section 6 - On-Line Service

Employees assigned to on-line service will not be entitled to additional compensation above and beyond that contemplated under Rule 39, Per Diem Allowances, except in making moves from an old assembly point to a newly designated assembly point in which event such employees in addition to their \$48.00 daily per diem as outlined under Rule 39(e) will be entitled to an additional transportation allowance as set forth below based upon the length of individual move.

Normal Traveled Road Miles From The Old Assembly Point to The New Assembly Point	Transportation Allowance
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***	***
151-250	\$34.50
***	***

The qualification provisions of Rule 39(e) will apply. ...

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RULE 39 - PER DIEM ALLOWANCES

* * *

(e) On-line Service - ...

The foregoing per diem allowance will be paid for each day of the calendar week, including rest days, holidays and personal leave days, except it will not be payable for workdays on which the employee is voluntarily absent from service ...

* * *

APPENDIX X-1

This is in reference to the amendments made this day to Agreement Rules 29, 30, 36 and 39. To help clarify some of the issues involved with the changes made, the following understandings will apply:

- (1) The language of Rule 39(e) indicating "the employee is voluntarily absent" means the employee has failed to render compensated service on a workday on which work was available to him;

* * *

Claimants were on vacation when their System Tie Gang 9067 moved its assembly point location at Bonner Springs, Kansas to Council Bluffs, Iowa. The Organization asserts that, even though on vacation when their gang moved its assembly point, Claimants were entitled to \$34.50 transportation allowance for that move.

Rule 36(6) provides for an additional transportation allowance for

moves of assembly points. However, Rule 36(6) also provides that "[t]he qualification provisions of Rule 39(e) will apply." Rule 39(e) provides that payments "... will not be payable for workdays on which the employee is voluntarily absent from service ..." and Appendix X-1 made it clear that "[t]he language of Rule 39(e) indicating 'the employee is voluntarily absent' means the employee has failed to render compensated service on a workday on which work was available to him"

Claimants were on vacation when their gang's assembly point was moved from Bonner Springs to Council Bluffs. Claimants therefore did not "... render compensated service on a workday on which work was available" as required by the above combination of rules as a precondition for receipt of the additional transportation allowance. The Organization's position therefore lacks rule support, requiring a denial of the claim.

AWARD

Claim denied.



Edwin H. Benn
Neutral Member



D. A. Ring
Carrier Member



R. C. Robinson
Organization Member

Chicago, Illinois

Dated: April 8, 2008