

PUBLIC LAW BOARD NO. 76
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
vs.
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
Roy R. Ray, Referee

STATEMENT OF CLAIM:

1. The Carrier erred in failing to reimburse Claimant Machine Operator A. E. Wilhelm for mileage in the use of his personal automobile for Carrier business for the month of June 1968.
2. The Carrier shall reimburse Machine Operator A. E. Wilhelm for this mileage as claimed by him during the month of June 1968.

OPINION OF BOARD:

During June 1968 Claimant A. E. Wilhelm was a machine operator in Extra Gang No. 587. Carrier provided the Gang with a trailer which was designated as headquarters. During all the period involved here it was located at Brookshire, Texas (Mile Post 1048) and was the assembling point for the men working in the Gang. Carrier also provided a truck for transporting members of the Gang from the trailer or assembling point to the work site and return each day.

Wilhelm submitted a Travel and other Expense voucher for June 1968 claiming meal allowance of \$2 per day and a mileage allowance for 612 miles at 9 cents per mile for travel from trailers located at La Grange (Mile Post 989) and Katy (Mile Post 1056) to the work location on some 14 separate dates. The Division Engineer approved the meal allowance but declined the claim for mileage. The latter constitutes the instant claim. The Expense Form as presented by Wilhelm claimed mileage as follows:

June 3, 4, 5 - travel from Company trailer located at MP 989 (La Grange) to work location at MP 1013 and return each day. 48 miles per day

June 6, 7, 10, 11, 14 - travel from Company trailer located at MP 989 (La Grange) to work location at MP 1018 and return each day. 58 miles per day.

June 17 and 18 - travel from Company trailer located at MP 989 (La Grange) to work location at Mile Posts 1023 and 1024 and return each day. 68 and 70 miles per day.

June 25, 26, 27, 28 - travel from Company trailer located at MP 1056 (Katy) to work location at MP 1051 and return each day. 10 miles per day.

The Company had trailers located at La Grange and Katy and presumably had told employees that they could stay there. Neither of these trailers was designated as headquarters or as the assembling point for transportation to the work site. On June 3 to 5 Wilhelm's work location was near MP 1013; from June 6 to 14 it was near MP 1018; on June 17 and 18 it was near MPs 1023 and 1024 and from June 25 to June 28 it was at MP 1056. Wilhelm never stayed in the trailer at Brookshire (headquarters) nor in the trailer at La Grange although he had been told by the Roadmaster that he could do so. Two other men of his Gang did stay in the trailer at La Grange while near there. Wilhelm's home is in Red Rock, Texas, some 42 miles southwest of La Grange and he travelled by his car from his home to the work location and return on all the dates involved in the present claim except for June 25, 26, 27 and 28 when he stayed in the trailer located at Katy. He never reported to the assembling point at Brookshire.

The Organization contends that Wilhelm was authorized to drive his own automobile from the assembly point to the work location when he was instructed to report to his machine location and no transportation was furnished by Carrier. It says that Article I Section 1C3 of Agreement No. DP-404 provides for payment of mileage under these circumstances.

Carrier resists the claim on two grounds: (1) Wilhelm was not authorized to use his own car in lieu of transportation furnished by the Carrier and available for his use. (2) Article I, Section 1 C 3 of DP-404 does not support the claim since it only provides for reimbursement for the cost of transportation from one work point to another and then only when transportation is not furnished by Carrier.

In our judgment Carrier's position is the correct one on the facts and is supported by the Agreement. Wilhelm could have stayed in the trailer at Brookshire and been transported to his work location by the Company truck provided for that purpose. He could have stayed in a trailer at La Grange while working near there as two other members of the Gang did. Incidentally neither of them filed any claim for transportation from there to their work location. Wilhelm's decision to stay at home nights and commute from there to his work location by his own car was obviously dictated by personal considerations. He admits that a truck was available at Brookshire (where he could have stayed) for transportation but argues that with only one truck and in view of the distance between his work location and that of the main gang a lot of time would have been involved in transporting him to and from work in the truck. It was not for him to determine that because of the time involved in transporting him to and from his work site he was at liberty to use his own car, and he reimbursed for mileage. Here the Roadmaster gave no such authorization.

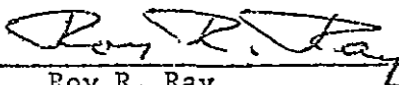
Article I, Section 1 C 3 of Agreement DP-404 does not support the claim. It applies only where the railroad does not furnish a means of transportation from one work point to another and the employe uses his own transportation. No such claim is presented here. The claim is not for travel from one work point to another. The Rule does not grant mileage expense for travel from a

trailer used as headquarters to the work location each day. It does not grant such mileage for travel from a trailer such as those at La Grange and Katy to the work location. The claim presented by Wilhelm was for travel between these trailers and his work location. He never actually travelled between these points but rather between his home and the work site. It is clear from the above that the present claim is not one contemplated by the language of Article I, Section 1 C 3 of Agreement DP-404 and is, therefore, without merit.

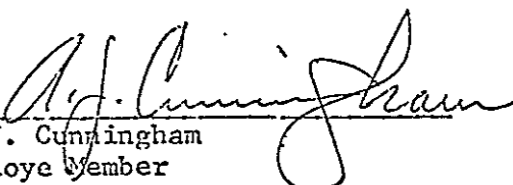
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The Claim is denied.

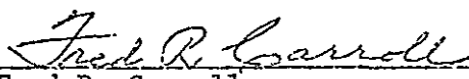
Public Law Board No. 76



Roy R. Ray
Neutral Member and Chairman



A. J. Cunningham
Employee Member



Fred R. Carroll
Carrier Member

Dallas, Texas,
October 31, 1969