

SPECIAL BOARD OF ADJUSTMENT NO. 1048

Award No. 5

Parties to Dispute:

Brotherhood of Maintenance of Way Employees

and

Norfolk and Western Railway Company

Statement of Claim:

B. V. Schaefer and W. S. Johnson - request for 2 hours pay while attending investigation as a witness requested by the Organization.

Findings:

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

The Organization requested that Claimants appear as witnesses in an unjust treatment hearing for a coworker. Claimants were notified to attend the hearing in a letter from Carrier's General Foreman. The Organization contends that Claimants are entitled to compensation under Rule 54 because they were taken away from their regularly assigned duties at the request of Management.

Rule 54 provides in pertinent part:


Employees taken away from their regular assigned duties at the request of the Management, ... to appear as witnesses for the Company, ... will be allowed compensation equal to what would have been earned had such interruption not taken place, (Underscoring added.)


Entitlement to compensation under Rule 54 is conditioned on two factors; 1), being taken away from assigned duties at Management's request, and; 2), appearing as a witness for the Company. While it is arguable in this case that Claimants may have subsequently been taken away from work at Management's direction (to honor Grievant's request for their attendance at his hearing), it cannot be argued that they did not appear as witnesses for the Company. Rule 54 cannot be fairly read to require compensation in instances where the employee does not appear as a witness for the Company.

A W A R D

Claim denied. Rule 54 does not require compensation in the circumstances present.

  
John C. Fletcher

  
Richard A. Lau  
Organization Member

  
L. F. Miller, Jr.  
Carrier Member

Issued at Mt. Prospect, IL, June 10, 1991