ARBITRATION BOARD NO. 298

IN THE MATTER OF AN ARBITRATION Between CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND THE SOUTHEASTERN, EASTERN AND WESTERN CARRIERS' CONFERENCE COMMITTEES and EMPLOYEES' NATIONAL CONFERENCE COMMITTEE, FIVE COOPERATING RAILWAY LABOR ORGANIZATIONS (NATIONAL MEDIATION BOARD CASE NO. A-7948)	INTERPRETATIONS NUMBERED 12 THROUGH 58

BOARD OF ARBITRATION

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INTERPRETATION NO. 12 (Question No. 1; BRS and UP)

QUESTION: Carrier practice over a period of many years has been to provide camp cars for gangs but camp car rules in effect do not make it mandatory that cars be provided. Employes assigned to such gang are recruited from an entire seniority district and work away from home while assigned to the gang.

May Carrier discontinue providing camp cars and escape payment under I-A-3?

ANSWER: This question requires a determination as to whether or not the employees involved are to be provided for under Section I of the Award. Section I applies to all employees "who are employed in a type of service, the nature of which regularly requires them throughout their work week to live away from home in camp cars, camps, highway trailers, hotels or motels."

The "Opinion of the Neutral Members" issued concurrently with the Award on September 30, 1967, includes the following pertinent language in further defining the employees contemplated as provided for in Section I:

> "The employees involved are primarily maintenance of way employees who are engaged in the construction, re-construction, maintenance, and repair of the roadway, bridges, buildings, and other structures and the signalmen who perform similar services in connection with the signaling devices and systems."

The Memorandum of Board Conference issued by the full Board on September 30, 1967, included the following:

> "1. It was decided by the Board that the provisions of Section I shall not apply to employees where the men report for duty at a fixed point, which remains the same point throughout the year."

The Carrier seems to contend that these employes are now subject to Section II of the Award rather than Section I.

With regard to Section II employees the following language from the "Opinion of the Neutral Members" is pertinent:

> "Section II of the award deals primarily with problems arising out of relief service, although not limited thereto. Within the area of relief assignments three general categories are involved and these are: (1) regular assigned employees diverted from their regular assignment to perform relief service; (2) regular assigned relief employees who provide relief on a scheduled basis to fill in on the rest days of regular employees; and (3) extra employees who provide relief on an irregular unscheduled basis as the needs of the service may require."

An employee cannot be transferred from coverage of Section I into Section II merely by the discontinuance of camp cars and/or the designation of a headquarters point.

In applying the foregoing principles and guidelines to the specific question at issue here, it is clear that the employees

are in a type of service contemplated within the coverage of Section I. The Carrier may discontinue providing camp cars but may not escape payments under Section I except in locations where the men report for duty at a fixed point which remains the same point throughout a period of 12 months or more.

INTERPRETATION NO. 13 (Question No. 2; BRS and UP)

QUESTION: Carrier's practice over a period of many years has been to provide camp cars for gangs performing work over an entire seniority district or the entire railroad. Employes assigned to such gang are recruited from the entire seniority district or the entire railroad and work away from their homes while assigned to the gang.

May carrier discontinue providing camp cars, establish a fixed location as headquarters for the gang, changing the headquarters location as work progresses over such seniority district or the entire railroad and escape payment under I-A-3?

ANSWER: This question is answered by Interpretation No. 12.

INTERPRETATION NO. 14 (Question No. 3; BRS and UP)

QUESTION: Seniority district covers a division or in some instances the entire railroad. In order to protect seniority, agreement rules require employes to bid for jobs in a gang which works over the entire seniority district or entire railroad as work progresses. Employes bidding in such positions in the gangs are recruited from the entire seniority district and work away from home while assigned to the gang.

May carrier establish a fixed location as headquarters for the gang and escape payment under I-A-B or C, especially in view of the fact that none of the employes in such gang have their homes in the vicinity of the fixed location and further, that it would not be logical to move their homes to the location of the new work points as work progresses?

ANSWER: This question is answered by Interpretation No. 12

INTERPRETATION NO. 15 (Question No. 4; BRS and UP)

QUESTION: Carrier establishes a position at a fixed location in connection with rail laying programs or catching up work on a maintainer's territory. The nature of the work being of short duration, it would not be feasible or practical to move his home to such location and the successful applicant lives away from his home while on such assignment.

May carrier avoid payment of lodging and meal allowance under the Award?

ANSWER: This question is answered by Interpretation No. 12.

INTERPRETATION NO. 16 (Question No. 5; BRS and UP)

QUESTION: Carrier establishes a system gang at a fixed location in a terminal area or classification yard without camp cars. Employes are recruited from all over the railroad system with their homes at various points, none of them maintains his home in the vicinity of the terminal or classification yard.

Inasmuch as the employes are required to live away from their homes throughout their work week, may Carrier escape provisions of I-A-3, B-3 and B-4?

ANSWER: Yes. Inasmuch as these men report for duty at a fixed point which remains the same throughout the year; see Interpretation No. 8.

INTERPRETATION NO. 17 (Question No. 6; BRS and UP)

QUESTION: Employes are working in a gang at point "A". The work point is changed from "A" to "B" outside of work hours or on a rest day or holiday while employes are not actually at work. Employes are not required by the carrier to ride in the camp cars and elect to travel from "A" to "B" in their own automobiles.

May carrier avoid payment of travel time from "A" to "B" under I-C-1?

ANSWER: No. This question is answered by Interpretation No. 9.

INTERPRETATION NO. 18 (Question No. 7; BRS and UP)

QUESTION: May Carrier avoid payment of travel time from "A" to "B" because the employee traveled from "A" to "C" to "B" rather than going straight to "B" before going home to "C"?

In traveling from one work point to another outisde of regularly assigned hours or on a rest day or holiday, is waiting time to be included in "time spent?"

ANSWER: This question is in two parts. The answer to part one is: No. See Interpretation No. 9.

Part two is answered by Interpretation No. 11.

INTERPRETATION NO. 19 (Question No. 8; BRS and CMStP&P)

QUESTION: Is Carrier permitted to apply the Award in such a manner so as to reduce benefits employees received under existing rules and practices before; i.e., in view of the illustration cited below with respect to a Special Signal Maintainer position, was Carrier permitted under the Award to allow the incumbent of that position

only $3.00 a day for his meals even though he previously was reimbursed the full cost of meals taken on work days?

ANSWER: No. The Organization had the right to preserve the pre-existing full cost of meals allowance and under the particular facts presented in this case the option as exercised should be so interpreted.

INTERPRETATION NO. 20 (Question No. 9; BRS and CMStP&P)

QUESTION: To what meal allowance were the gang men entitled under the circumstances cited above? (*) - i.e., were they entitled to full meal expense for those days on which the kitchen facilities were not available for every meal? If not, to what were they entitled?

(*) The circumstances cited are as follows:

"An emergency situation arose which required the men to work overtime away from their trailers. They were required to leave the trailers after breakfast and were working on the emergency long enough to make it necessary that they purchase their noon and evening meals away from their trailers."

ANSWER: Under the circumstances cited, the employees were entitled to the $3.00 allowance under Section I-B-3.

INTERPRETATION NO. 21 (Question No. 10; BRS and IC)

QUESTION: To what meal allowance are the gang employees entitled under the circumstances cited above: (*) i.e., are they entitled to (1) $2.00 per day, (2) $3.00 per day, (3) $2.00 per day plus the actual cost of the noon meal taken away from the camp cars, kitchen facilities were not available to the men for that meal,

or (4) actual expenses for all meals taken during a day in which the kitchen facilities were not available to the men each and every meal throughout the day? If these men are entitled to none of the above, to what are they entitled?

(*) Circumstances cited are as follows:

The employees were living in camp cars and were receiving a meal allowance of $2.00 per day under Section I-B-2. Under normal circumstances they returned to the camp cars for each meal. On the date in question they were working so far away from the camp cars that it was impractical for them to return for the noon meal.

ANSWER: Under the facts stated it is not clear whether the employees were given advance notice of the fact that they would be unable to return to the camp car for the noon meal. If the employees were notified prior to departure from the camp cars that it would be impossible for them to return for the noon meal then they should be prepared to carry with them a lunch and would be entitled to no additional payment other than the normal payment already being made under Section I-B-2. If on the other hand the employees were not notified in advance of the fact that they would be unable to return to the camp cars for the noon meal, then as a total meal allowance for the date in question they would be entitled to the $3.00 allowance under Section I-B-3.

INTERPRETATION NO. 22 (Question No. 11; BRS and Southern)

QUESTION: Does a vacation constitute a voluntary absence within the meaning and intent of sub-paragraph B-4 of Section I; i.e., if a gang man receives the $1.00 daily meal allowance may Carrier make any

deduction because of a vacation? For example, an hourly rated gang man whose normal work week is Monday through Friday begins a ten day vacation on Monday, March 4, 1968, with the actual vacation days being March 4, 5, 6, 7, 8, 11, 12, 13, 14 and 15. He qualified for and received the $1.00 daily meal allowance for March 1 and March 18, the work days immediately preceding and following his vacation period. For which days was he entitled to the $1.00 daily meal allowance, if any, March 2 to March 17, both dates inclusive? Please explain.

ANSWER: In this case the employee was on vacation from March 4 through March 17, 1968. He worked on Friday, March 1, 1968, the last work day preceding vacation and on Monday, March 18, 1968, the first day after vacation period. Therefore, he qualified for meal allowance on rest days, March 2 and 3, 1968, but for no other days during vacation period.

INTERPRETATION NO. 23 (Question No. 12; BRS and C&S)

QUESTION: Was it proper for the General Chairman to amend his initial option in view of the fact he did so before the February 1, 1968, deadline? If not, please explain what language in the award prohibits an Organization from amending its exercise of option within the prescribed time limits.

ANSWER: The question is moot. Carrier has accepted amended option.

INTERPRETATION NO. 24 (Question No. 13; BRS and CB&Q)

QUESTION: Are employees away from home all week but at their headquarters entitled to the lodging and meal benefits of sub-sections A and B of Section I?

ANSWER: This question relates to a single gang with a fixed headquarters to which the men report for duty throughout the year and as such was answered by Interpretation No. 8, rendered by this Board on January 12, 1968 and Paragraph No. 1 of Memorandum of Board Conference, September 30, 1967.

INTERPRETATION NO. 25 (Question No. 14; BRS and CB&Q)

QUESTION: If Carrier assigns a headquarters for an employee and he does not live at the headquarters point, will that employee be entitled to any or all of the benefits of Section I, and then if he is required by Carrier to be away from headquarters would he be entitled to full expenses while away from headquarters in accordance with agreement, rules and practices in existence when the Award was issued?

ANSWER: This question is a two part question.

The answer to the first part of the question is: No. The situation is the same as that presented in Interpretation No. 8. In connection with the second part of the question the Carrier advises that these employees are paid actual expenses under existing rules when sent away from headquarters.

INTERPRETATION NO. 26 (Question No. 15; BRS and CB&Q)

QUESTION: When an employee was being reimbursed for actual meal and lodging expenses under existing rules and practices prior to the Award, may Carrier reduce the employee's expenses to the $3.00 daily meal allowance and the $4.00 daily lodging allowance when he is assigned to a camp car headquarters but temporarily required to be away from headquarters?

ANSWER: The question is moot. The Board is advised that there is no further dispute on the property.

INTERPRETATION NO. 27 (Question No. 16; BRS and GTW)

QUESTION: When employees are in a type of service covered by Section I of the Award, and Carrier fails and/or refuses to properly maintain the lodging facilities by furnishing the beds, bedding, etc., listed in sub-paragraph A-1, and refuses to keep them clean in accordance with sub-paragraph A-2, what course of action should the employees follow until Carrier does comply by furnishing and properly maintaining what is required?

ANSWER: The Carrier is bound by the provisions of the Award and assuming that it has failed to comply with the provisions of the Award, the remedy of the employees is exactly the same as it would be if the Carrier violated any provision of the Collective Bargaining Agreement between the parties: i.e., a claim may be filed and processed under the provisions of the Railway Labor Act.

INTERPRETATION NO. 28 (Question No. 17; BRS and CMStP&P)

QUESTION: When existing rules provide for actual expenses away from headquarters, could Carrier properly change an employee's headquarters from camp cars or trailers to a specific headquarters without camp cars or trailers, and thereafter only apply the meal and lodging allowances of Section I for those days and/or nights the employee is away from the new headquarters, and then pay meal or lodging allowance for those days the employee leaves from his headquarters point and returns thereto the same day?

ANSWER: These employees are not in a type of service contemplated within the coverage of Section I.

The answer to the first part of the question submitted by the Organization is "Yes," but the answer to the second part of the question is--the employes are subject to Section II of the Award and if an existing rule provides for actual expenses while away from headquarters and Employes opted to retain such existing rule, then actual expenses would apply under such rule for any day when away from headquarters point.

INTERPRETATION NO. 29 (Question No. 18; BRS and SP (Pacific Lines))

QUESTION: May Carrier pay only the $3.00 daily meal allowance instead of the actual cost of meals, under cirumstances that previously entitled the employees to reimbursement for the actual cost of meals? If not, please explain.

ANSWER: The question has been withdrawn.

INTERPRETATION NO. 30 (Question No. 19; BRS and SP (Pacific Lines))

QUESTION: Will Arbitration Board No. 298 render a final decision on claims of this nature, or will it be necessary for the Organization to handle a monetary claim by initiating it at a lower level than the carrier official who rendered the decision quoted above, and then appealing that claim to the National Railroad Adjustment Board or some other tribunal under the Railway Labor Act. In other words, will this Board render a final decision, or merely issue an interpretation?

ANSWER: The question has been withdrawn.

INTERPRETATION NO. 31 (Question No. 20; BRS and SP (Pacific Lines))

QUESTION: When an employee is away from his home station for the noon meal and entitled to be reimbursed for the cost thereof under provisions of the schedule agreement that have been in existence for years, does the Award of Arbitration Board No. 298 give the Carrier any right to refuse to reimburse the employee for the actual cost of such a meal? If so, please explain.

ANSWER: This question involves employees stationed in camp cars or trailers. Under these circumstances Interpretation No. 21 is applicable.

INTERPRETATION NO. 32 (Question No. 21; BRS and Southern)

QUESTION: May the Organization accept or reject any sub-paragraph of a Section of the Award; i.e., was it proper for the Brotherhood of Railroad Signalmen to accept paragraphs 1, 3, and 4 of Section I-B and not accept paragraph 2?

ANSWER: The Organization is not permitted to take only certain paragraphs of Section I-B, and reject others. The facts submitted in this case, however, establish that a pre-existing rule on this property required the Carrier to furnish a cook, and if the employees opt to accept Section I-B of the Award it is not permissible for the Carrier to discontinue furnishing a cook.

INTERPRETATION NO. 33 (Question No. 22; BRS and AWP, WRofA, & GA.)

QUESTION: Can Carriers escape the responsibility of laundering bed linen, towels, etc., when the Brotherhood accepted I-A-1 and I-A-2?

ANSWER: No.

INTERPRETATION NO. 34 (Question No. 23; BRS and L&N)

QUESTION: May Carrier exclude monthly-rated employees from the travel time and expense provisions of sub-paragraph C-1 and C-2 of Section I?

ANSWER: The monthly rated employees of the class and craft involved on this property are subject to a rule which provides that the overtime is paid after 211-2/3 hours. Travel time applies toward the 211-2/3 hours. Such monthly rated employees are not excluded from the travel time and expense provisions of the Award. Travel time allowances for time consumed traveling and waiting en route would not begin to apply until after expiration of the 211-2/3 hours comprehended in this monthly rate.

INTERPRETATION NO. 35 (Question No. 24; BRS and AWP, WRofA, GA)

QUESTION: Can Carrier require employees to ride in the back of a company truck, with tools and equipment, from one work point to another and escape reimbursement to employees for the use of other forms of public transportation, or private automobile?

ANSWER: Section I-C-2 of the Award obviously contemplates the furnishing of reasonable and suitable transportation by the railroad company. Disputes such as that presented in this question involve factual findings as to what constitutes reasonable and suitable transportation, and should be handled in the same fashion as other grievances under the Collective Bargaining Agreement and under the Railway Labor Act.

INTERPRETATION NO. 36 (Question No. 25; BRS and MoP)

QUESTION: Are Section I employees entitled to the $3.00 daily meal allowance under sub-paragraph B-3 of Section I when Carrier intends to place them in the $2.00 daily allowance category of sub-paragraph B-2 of Section I, but does not provide sufficient cooking and dining facilities to accommodate all the men assigned to that unit?

ANSWER: Section I-B-2 obviously contemplates that the railroad company must provide suitable and sufficient cooking and eating facilities. On this particular property it also appears that there is a local rule (Rule 808) setting forth more specific requirements in this connection. The question as presented involves a factual dispute which should be processed under the usual grievance procedures of the Collective Bargaining Agreement and under the Railway Labor Act.

INTERPRETATION NO. 37 (Question No. 26; BRS and KCS)

QUESTION: When the lodging facilities are not equipped in accordance with sub-paragraph A-1 of Section I, and/or are not adequate for the purpose and maintained in accordance with sub-paragraph A-2 of Section I, are the employees involved entitled to the $4.00 daily allowance under sub-paragraph A-3 of Section I?

ANSWER: Section I-A-2 provides that lodging facilities furnished by the railroad company shall be adequate for the purpose, and maintained in a clean, healthful and sanitary condition. The question presented involves a factual dispute as to compliance with that provision and must be handled as a grievance under the normal

procedures of the Collective Bargaining Agreement and under the Railway Labor Act.

INTERPRETATION NO. 38 (Question No. 27; BRS and UP)

QUESTION: When Carrier established a signal gang with a headquarters point but did not furnish camp cars or other lodging or dining facilities, and abolished the gang after six weeks, were the employes assigned to that gang entitled to the meals and lodging provisions of Article I of the Award?

ANSWER: This question is answered by Interpretation No. 12.

INTERPRETATION NO. 39 (Questions Nos. 28, 29, 30; BRAC and AT&SF)

QUESTION: 1. Does the Award of Arbitration Board No. 298 contemplate the application of an Attending Court Rule when an employee is required to be away from home station to attend court or coroner's inquest at the request of the Company?

2. Are the travel time allowances and computations provided in Section II-D applicable where an employee is required to be away from home station to attend court or coroner's inquest at the request of the Company?

3. If the Organization elects to retain the "actual expense" provisions of Rule 35 - Attending Court, can we accept Section II-D of the Award of Arbitration Board No. 298?

ANSWER: In the evidence presented to the Board it was not indicated that attendance at court or coroner's inquest at the request of the company was a problem embraced within the controversy submitted. Apparently the evidence was not addressed to such matters because many agreements cover the subject sufficiently satisfactorily

so that no party saw fit to make an issue on this point. We conclude that where there is a negotiated rule on the subject, as there is in the case covered by these three questions, the Award does not supplant the negotiated rule. We do not decide what would be the answer under other circumstances.

INTERPRETATION NO. 40 (Questions Nos. 31, 32, 33; MWE and CRI&P)

QUESTION: Is it the intent and purpose of Section II, paragraph D, of the Award:

1. That a Carrier may require regularly assigned employees (that is, those not in relief, extra, or temporary service) to be transported on their own time without pay between their designated assembling point and the site of work each day, in the performance of their regularly assigned daily duties, for as much as one hour each way, thus allowing them only eight hours pay at the straight-time rate for a tour of duty covering as much as ten hours?

2. To disturb the long standing application of the working agreement that the time of such regularly assigned employees begins and ends each day at designated assembling points?

3/ To contemplate the establishment of a new assembling point each work day for such regularly assigned employees for the purpose of avoiding the payment of time spent in being transported between the designated assembling point and the site on the work territory at which work is performed?

ANSWER: To the extent that this dispute may involve the interpretation of the schedule agreement, Arbitration Board No. 298 does not

have jurisdiction; however, that portion of Section II-D providing for a one-hour lag before travel or waiting time starts applies only to employees in relief or extra service while traveling to or from a work location.

INTERPRETATION NO. 41 (Question No. 34; MWE and StL-SW)

QUESTION: Is it the intent and purpose of Section V of the Award that, with respect to employees other than those contemplated by Section I, the cancellation of all existing rules, agreements, and written understandings pertaining to travel time and away-from-home expense is a requisite to the application of Section II of those employees not covered in whole or in part by such rules, agreements, and written understandings?

ANSWER: No. This answer is supported by the reasoning behind Interpretation No. 3.

INTERPRETATION NO. 42 (Question No. 35; MWE and StL SW)

QUESTION: Is it the intent and purpose of Section V of the Award that if the Organization elects to accept the benefits of Section II of the Award for any employees, it must then accept the application of Section II to all employees covered by the working agreement, other than those contemplated by Section I, in lieu of existing agreement rules, agreements, and written understandings pertaining to travel time and away-from-home expenses?

ANSWER: No. This answer is supported by the reasoning behind Interpretation No. 3.

INTERPRETATION NO. 43 (Question No. 36; TCU and IC)

QUESTION: May the Carrier arbitrarily allocate the expense allowance into two portions--a maximum of $4.00 for lodging and a maximum of $3.00 for meals?

ANSWER: Section II is an updating of Referee Cole's decision Number 6, in the 40-hour week case. We do not understand that there was any breakdown in the allowance for meal and lodging allowance under that decision, nor does Section II so contemplate, except in the circumstances covered by paragraph number 5 of Memorandum of Board Conference of September 30, 1967, which reads as follows: "Under Section II-B, if the Carrier provides a lodging facility at an away from headquarters point, and employee is agreeable to using such a facility, then the maximum allowance will be $3.00 for meals."

INTERPRETATION NO. 44 (Question No. 37; TCU and GN)

QUESTION: May the Carrier arbitrarily determine whether an extra employee (a) returns to his headquarters point on his rest days, (b) reports directly to his next assignment, or (c) remains at his away-from-headquarters assignment?

If the answer to the above question is NO; what is the extra employee entitled to under Section II-B and D if he is not permitted to return to his headquarters point on his rest days?

ANSWER: The Carrier has the right to determine whether an employee should be authorized to return to his headquarters point on any day including rest days or between assignments. Depending upon what advice the Carrier gives the employee, he is entitled to

the benefit of either Paragraph "B", or Paragraph "C" and "D" of Section II.

INTERPRETATION NO. 45 (Question No. 38; TCU and CMStP&P)

QUESTION: May the Carrier require a newly-hired employee to perform extra work before assigning said employee a "headquarters point" as provided for in Section II-A of the Award; and, thereafter, indiscriminately change said employee's headquarters point to the extent that Section II of the Award is, for all practical purposes, nullified as it pertains to extra employees?

ANSWER: This question has been resolved on the property on which the dispute arose and is now moot.

INTERPRETATION NO. 46 (Question No. 39; TCU and StL-SF)

QUESTION: May Carrier avoid payment of the nine cents (9¢) per mile allowance to employees assigned to dualized stations, who travel from one work point to another, when no election was made to retain the eight cents (8¢) per mile allowed under Memorandum of Agreement of April 19, 1960, agreeing to the dualization of certain stations?

ANSWER: The question has been withdrawn.

INTERPRETATION NO. 47 (Question No. 40; TCU and StL-SF)

QUESTION: May an employee return to his headquarters point on any day that time and travel facilities permit, by free or public transportation, and be entitled to compensation as provided for under the Award?

ANSWER: This is covered by Interpretation No. 44.

INTERPRETATION NO. 48 (Question No. 41; MWE and StL-SF)

QUESTION: Does Section I-B of the Award supersede Agreement Rule 7-17, under which welders and welder helpers are entitled to be reimbursed for actual necessary expenses when they are away from their assigned headquarters?

ANSWER: No. The Organization elected to preserve existing Rule 7-17.

INTERPRETATION NO. 49 (Question No. 42; TCU and CRI&P)

Question: Did the Carrier properly designate headquarters points for the employees working on the Chicago Division?

ANSWER: The question has been withdrawn.

INTERPRETATION NO. 50 (Question No. 43; MWE and MKT)

QUESTION: Are employees who qualify under Section I-B-4 of the Award for the meal allowance set forth in Section I-B-1, B-2, or B-3 deprived of such allowance for work days, rest days or holidays if they do not actually occupy their camp cars or trailers on such days?

ANSWER: No. Section I employees are not required to stay in camp cars to qualify for meal allowance.

INTERPRETATION NO. 51 (Question No. 44; MWE and MKT)

QUESTION: Is J. E. Seidel entitled to the benefits of Section I of the Award during October 1967 while working as foreman of Extra Gang No. 591, and during November and December 1967, and January and F bruary 1968, while working as machine operator on Extra Gang No. 587?

ANSWER: Yes. The employee in question is entitled to the benefits of Section I. See Interpretation No. 12.

INTERPRETATION NO. 52 (Question No. 45; MWE and TP&W)

QUESTION: 1. Can the Carrier avoid granting to employees in extra gangs Nos. 2 and 3 the benefits of Section 1 of the Award by designating "headquarters" for these gangs and changing such "headquarters" at intervals as the work progresses?

2. Are the employees in these gangs entitled to be reimbursed, retroactive to October 15, 1967, and as long as this practice is continued, for the expense of lodging in accordance with Section I-A-3, for meals in accordance with Section I-B-3 and for travel from one work point to another in accordance with Section I-C?

ANSWER: The answer to part one of the question is: No.

The answer to part two of the question is: Yes. See Interpretation No. 12.

INTERPRETATION NO. 53 (Question No. 46; TCU and B&OCT)

QUESTION: Is the Award of Arbitration Board No. 298 applicable to employees affiliated with the Transportation-Communication Employees Union performing service for and on the Baltimore and Ohio Chicago Terminal Railroad Company?

ANSWER: Yes.

INTERPRETATION NO. 54 (Question 47; MWE and StL-SF)

PART: 1. Should Rule 26 of the Agreement effective March 1, 1951 be revised as requested by the employes?

Rule 26 reads as follows:

"Group A employes assigned to perform service away from their headquarters and working variable hours, will not

be assigned regular hours, and will not be paid for time traveling or waiting. They will be allowed time at rate of eight hours per day for assigned days per week, and in addition pay under provisions of this agreement for actual time worked in excess of eight hours per day or on their assigned rest days and holidays, excluding time traveling or waiting, and will be allowed actual necessary expenses."

The employes propose to revise the rule so as to eliminate the language "will not be paid for time traveling or waiting" and change the word "excluding" to "including," as these provisions are contrary to the provisions of Section II of the Award.

ANSWER: The monthly rated employees of the class or craft involved on this property receive a monthly rate based on 174 hours. This rate does not include pay for time traveling outside of assigned hours.

The employees elected to accept Section II and therefore regardless of the provisions of existing Rule 26, the monthly rated employees in this case whose monthly rate is based on 174 hours are subject to the travel time provisions of Section II-D, except that the one hour lag under that Section applies only to employees in relief or extra service while traveling to or from a work location.

PART: 2. Are the employes entitled to preserve Rule 27 of the Agreement effective March 1, 1951?

Rule 27 reads:

"The Railway will furnish a bunk car in good order with each ditcher outfit."

The employes requested that this rule be retained and the provisions of Section I-A be applied.

ANSWER: Yes.

PART: 3. Are employes covered by the Agreement effective March 1, 1951 who prior to the Award received actual necessary expenses while away from their fixed headquarters entitled to have such actual necessary expenses preserved?

ANSWER: Yes. See Interpretation No. 3.

PART: 4. Are employes covered by the Agreement effective March 1, 1951 who are in travel service and were not allowed actual necessary expenses or travel time prior to the Award entitled to the benefits of Section I of the Award?

ANSWER: Yes, but employees who are covered by more favorable rules are entitled to have such rules continue to apply.

PART: 5. Are the employes entitled to preserve the provisions of Article 5, Rule 24, of the Agreement effective April 1, 1951 specifically covering travel time during regular working hours? Article 5, Rule 24, reads:

> "Employes required by the management to travel on or off their assigned territory in boarding cars will be allowed straight time traveling during regular working hours, and for their assigned rest days and holidays during hours established for work periods on other days."

ANSWER: The employees are entitled to retain Rule 24 and to integrate it with Section I-C-1 of the Award. The Memorandum of Agreement of January 8, 1951 is in conflict with Rule 24 and Section I-C-1 and cannot be applied.

PART: 6. Are the employes entitled to preserve the provisions of Article 5, Rule 30, of the Agreement effective April 1, 1951? Article 5, Rule 30 reads:

"Employes permanently assigned to duties requiring variable hours working on or traveling over an assigned territory and away from and out of reach of their regular boarding and lodging places or outfit cars, will provide board and lodging at their own expense and will be allowed time at rate of eight hours per day for assigned days per week, and in addition pay under provisions of this agreement for actual time worked in excess of eight hours per day or on their assigned rest days and on holidays, excluding time traveling or waiting, and actual necessary expenses. When working at points readily accessible to boarding and lodging places or outfit cars, the provisions of this rule will not apply."

ANSWER: Yes. See answer to part one of this Interpretation No. 54.

PART: 7. Are the employes entitled to preserve the provisions of Article 5, Rule 31, of the Agreement effective April 1, 1951? Article 5, Rule 31 reads:

"Employes in temporary or emergency service, except as provided in Rule 24, required by the direction of the management to leave their home station, will be allowed actual time for traveling or waiting during the regular working hours. All hours worked will be paid for in accordance with practice at home station. Travel or waiting time during

the recognized overtime hours at home station will be paid for at the pro rata rate.

"If during the time on the road a man is relieved from duty and is permitted to go to bed for five or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight hours each calendar day, when such irregular service prevents the employe from making his regular daily hours at home station. Where meals and lodging are not provided by the railway, actual necessary expenses will be allowed.

"Where employes assigned to outfit cars are operating through on motor car and arrive at destination before outfit cars arrive, they will be allowed the pro rata rate for waiting time until the outfit cars do arrive, except where outfit cars will arrive more than five hours after regular quitting time, and men are at stations where board and lodging is available, they will be released at regular quitting time, tied up for five or more hours and allowed expense for meals and lodging without any payment for waiting time. Men will not be tied up at points where board and lodging is not available.

"Employes will not be allowed time while traveling in the exercise of seniority rights, or between their homes and designated assembling points, or for other personal reasons."

ANSWER: The paragraphs of Article 5, Rule 31 deal with different subjects. The first and second paragraphs apply to employees subject to Section II of the Award. The employees elected to preserve these two paragraphs; therefore, these two paragraphs should continue to apply to employees subject to those rules in the same manner as they were applied prior to the Award. The third paragraph of Rule 31, which the employees also elected to preserve, applies to employees covered by Section I of the Award. In integrating the third paragraph of Rule 31 with Section I-C-1 of the Award and with Article 5, Rule 24 of the agreement between the parties, there should be no duplication of benefits.

PART: 8. Are the employes entitled to integrate the provisions of Article 7, Rule 2 of the Agreement effective April 1, 1951 with Section I-A-1 of the Award?

Article 7, Rule 2 reads:

> "It will be the policy to maintain camp cars in good and sanitary condition and to furnish bathing facilities when practicable and desired by the employes and to provide sufficient means of ventilation and air space. All dining and sleeping cars will be screened when necessary. Permanent camp cars used for road service will be equipped with springs consistent with safety and character of car and comfort of employes. It will be the duty of the foreman to see that cars are kept clean."

ANSWER: Yes.

PART: 9. Are the employes entitled to eliminate paragraphs 4 and 5 of

the Letter Agreement dated May 23, 1940, revised effective April 1, 1951?

Paragraphs 4 and 5 read:

"4. Expenses will not be allowed employes filling positions covered by this agreement when outfit cars are furnished.

"5. Employes assigned exclusively to operating power bolt tightening machines or other power machines of similar kind, not assigned to a specific extra gang, district gang or section gang and not furnished outfit cars, will be allowed actual expenses with a maximum of $3.00 per day. Where such employes are assigned bunk car, they will be allowed actual expenses with maximum of $2.00 per day."

ANSWER: Yes.

PART: 10. Are the employes entitled to integrate Article 3, Rule 8 with Section II of the Award?

Article 3, Rule 8 reads:

"(a) There shall be one regular relief foreman on each Roadmaster's territory, whose duties shall be to serve in emergency and temporary vacancies. The position shall be regularly bulletined and the senior laborer on the Roadmaster's territory applying shall be selected, provided ability and merit are sufficient. While serving as relief foreman on emergency or temporary vacancies he shall receive the compensation paid the person he relieves. While not engaged as relief foreman on emergency or temporary vacancies, he shall not receive extra compensation above that of the class in which he is regularly employed. (Employe covered

by this Rule should be allowed pay for time necessary to lose from his regular position in going to or returning from filling emergency or temporary vacancies as foreman, such payment to be made at regular laborer's rate.) After serving in the capacity of relief foreman the required 60 days, as provided in these rules, he shall establish seniority rights as foreman, and will be entitled to bid on new positions or vacancies, on the Superintendent's Division. Nothing in this rule shall be construed to prevent a Roadmaster from affording relief in other emergencies when the regular relief foreman is not available.

"(b) Employe holding foreman's seniority rights, but who does not have sufficient seniority to hold regular assignment as foreman or assistant district gang foreman, will be entitled to assignment as relief foreman on the district where he holds his laborer's seniority."

ANSWER: Yes. Article 3, Rule 8, is not in conflict with the Award. The employees are entitled to retain it and integrate it with Section II but there can be no duplication of benefits.

PART: 11. Are the employes entitled to preserve paragraph 6 of the Letter Agreement dated May 23, 1940, revised April 1, 1951 and November 20, 1953, which reads:

"Diesel-Electric locomotive crane operators, track mowing machine operators and helpers, ballast discer operators and helpers, ballast regulator machine operators and helpers, Jackson Multiple Tamper machine operator not furnished outfit cars will be allowed expenses provided for in Article 5, Rule 30 of the Maintenance of Way Agreement.

ANSWER: Yes. See answers to parts one and six of this Interpretation No. 54.

INTERPRETATION NO. 55 (Question No. 48; MWE and PC)

QUESTION: Is an employee qualified to receive a meal allowance of $1.00 a day under Section I-B-1 of the Award entitled to receive such allowance if he does not stay in the camp cars or trailers when they are located in the vicinity of his home and he eats his meals at home?

ANSWER: Yes.

INTERPRETATION NO. 56 (Question No. 49; MWE and T&P)

QUESTION: Are the members of Track Gang No. 36 entitled to the benefits of Section I of the Award on and after December 12, 1967?

ANSWER: Yes. See Interpretation No. 12.

(Organization's explanatory note to Interpretation No. 56--not a part of the interpretation. This explanation is given because the interpretation itself does not contain the actual circumstances. The question which gave rise to the dispute in this case may be stated as follows: Can the carrier avoid granting to the employes concerned the benefits of Section I by removing them from camp cars, designating "headquarters" for them and changing such "headquarters" at intervals as the work progresses? This is the same basic question as was posed in Interpretation No. 52. The effect of the answer in Interpretation No. 56, as it was in Interpretation No. 52 as well as Interpretation No. 12, is that the carrier cannot avoid the application of Section I in such circumstances.)

INTERPRETATION NO. 57 (Question No. 50; MWE and EJ&E)

QUESTION: 1. Under the provisions of Section V of the Award, may the employees reject sub-paragraph D of Section II and thereby retain the benefits of the existing agreement and practices thereunder which treat time consumed in going from headquarters point to work location and return as time worked and which is paid for at the overtime rates when performed during overtime hours?

2. Does the term "headquarters point" used at various places within Section II contemplate that the headquarters point can be designated as an entire division, a city, a general area, or should it specify a particular and specific point?

3. Did the General Chairman's letter of January 31, 1968 represent a timely election under Section V?

ANSWER: 1. The answer to part one of the question is: the employees may reject sub-paragraph D of Section II and retain the existing rules and practices.

2. The Organization withdrew part two of the question at the executive session of the Board with the right to re-submit.

3. The answer to part three of the question is: Yes.

INTERPRETATION NO. 58 (Carrier's Question No. 1; MWE and CB&Q)

QUESTION: Are Section I employees entitled to meal allowance while stationed in their home towns and such employees are living at home with their families?

ANSWER: Yes. See Interpretation No. 55.

Dated this 29th day of March, 1969 in the city of Washington, D. C.

Arbitration Board No. 298

/s/ Paul D. Hanlon
Paul D. Hanlon, Neutral Member,
Chairman

/s/ David H. Stowe
David H. Stowe, Neutral Member

/s/ George E. Leighty
George E. Leighty, Employee Member

/s/ Harold C. Crotty
Harold C. Crotty, Employee Member

/s/ Alvin E. Egbers
Alvin E. Egbers, Carrier Member

/s/ Richard L. Harvey
Richard L. Harvey, Carrier Member

CERTIFICATE

We the members of Arbitration Board No. 298, Case No. A-7948 in the proceedings to which this Certificate is attached hereby certify that the foregoing is a true and correct copy of Interpretations Numbered 12 through 58 to the Award of the Board in said proceeding, as the same is filed in the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division.

Arbitration Board No. 298

/s/ Paul D. Hanlon
Paul D. Hanlon, Neutral Member, Chairman

/s/ David H. Stowe
David H. Stowe, Neutral Member

/s/ George E. Leighty
George E. Leighty, Employee Member

/s/ Harold C. Crotty
Harold C. Crotty, Employee Member

/s/ Alvin E. Egbers
Alvin E. Egbers, Carrier Member

/s/ Richard L. Harvey
Richard L. Harvey, Carrier Member

Washington, D. C.
March 29, 1969