

ORT CASE 2033
DOCKET NO. TE-8948
AWARD NO. 37
CASE 32

SPECIAL BOARD OF ADJUSTMENT NO. 310
The Order of Railroad Telegraphers
and
The Pennsylvania Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers, that Extra Block Operator D. G. Squier be allowed deadheading rates under Regulation 4-L-1 and mileage rates for the use of his car under Regulation 8-M-1, when traveling to and from his home station, Avilla, Indiana, to various stations on the Fort Wayne Division, for the purpose of performing extra work and posting; same having been denied him in part, due to alleged change of headquarters from Avilla, Indiana, to Grand Rapids, Michigan effective July 15, 1953." (Fort Wayne Division Case No. 108 - System Docket No.309)

FINDINGS:

Grand Rapids, Michigan is the established headquarters for all extra Block Operators on the Grand Rapids Branch.

Carrier asserts when Claimant, an extra Block Operator, was first employed as an extra Block Operator on February 21, 1952 "he was advised that he would be required to fill vacancies at various Block Stations on the Carrier's Grand Rapids Branch, and that for a limited time his headquarters would be considered as the Block Station nearest Kimmel, Indiana, his place of residence, viz., Carrier's Block Station at Avilla, Indiana. Claimant was also advised his headquarters would later be changed to Grand Rapids, Michigan, since this was the headquarters for all extra Block Operators on the Grand Rapids Branch. There is no denial of these facts.

Under date of July 13, 1953 Carrier sent the following letter to Claimant:

"Since the preponderance of your work as an Extra Block Operator is on the Grand Rapids Branch north of Grand Rapids, you are hereby notified that your headquarters is Grand Rapids, effective July 15, 1953."

Carrier's action is not prohibited by any section of the Agreement, and Organization's presentations do not prove otherwise.

AWARD:

Claim denied.

Signed this 10th day of April, 1961

s/ E. A. Lynch
E. A. Lynch, Chairman

s/ C. E. ALEXANDER
C. E. Alexander, Carrier Member

R. J. Woodman, Employee Member

DISSENT TO DOCKET TE-8948

The Majority have prefaced their findings with the statement that Grand Rapids, Michigan is the established headquarters for all extra Block Operators on the Grand Rapids Branch, and further on it states: "There is no denial of these facts."

The Organization proved beyond doubt that this was not the case at all. The Organization named twelve extra Block Operators who had headquarters other than Grand Rapids. Of these twelve employees, the Carrier, at page 10 through 19 of its Sur-Rebuttal Brief, admitted that eleven had other assigned headquarters. How the Board reached a conclusion that Grand Rapids was the established headquarters for all extra Block Operators while faced with these established facts is beyond comprehension.

In Employees' Exhibits "O", "P", and "Q", the Organization has shown how the Carrier recognized the location of an extra Block Operator's headquarters as the station nearest the employees' home. The Carrier expressed a desire in Exhibit "P" to revise the aforementioned principle set forth in Exhibit "O" but no attempt was ever made, either at the time the present Agreement was negotiated nor thereafter. The payments made in Exhibits "P" and "Q" are evidence that the Carrier agreed with the employees and their actions in these two cases were prohibited by the applicable Agreement. The Carrier well knew what was prohibited by the Agreement or it would not have paid the claims. It also knew that the only way to revise this principle was through the collective bargaining machinery provided for in the Railway Labor Act. For this Board to rule otherwise is to exceed its constitutional authority.

The majority have based their decision on erroneous pronouncements. They have ignored the factual evidence, consequently, the decision is fallacious and unacceptable.

s/ RUSSELL J. WOODMAN
Russell J. Woodman
Employee Member

