

Award No. 13
S.B.A. Case No. 13

SPECIAL BOARD OF ADJUSTMENT NO. 313

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- "(1) The Carrier violated the effective Agreement when it failed and refused to reimburse Roadway Equipment Operator John C. Richardson for expenses incurred while away from his outfit car during the period from August 26 through August 31, 1956.
- "(2) Roadway Equipment Operator John C. Richardson be reimbursed in the amount of \$28.70 for expenses incurred because of the violation referred to in Part (1) of this claim."

FINDINGS:

Special Board of Adjustment No. 313, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

The carrier and employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Board has jurisdiction over the dispute involved herein.

This claim is based upon several alleged facts, the first of which is an assertion by J. F. Cullen, Local Chairman, in a letter dated November 17, 1956, that claimant, John C. Richardson, billed his outfit car out of Idaho Falls on August 30, 1956. This fact is not supported by anything more than this one reference by Cullen except that it is repeated by C. R. Perry, General Chairman, in a letter dated January 18, 1957.

The carrier denies having any knowledge of this, or of any request, verbal or written, for movement of the outfit car until August 26. The carrier claims that the inquiries claimant made August 26 were not the proper procedure and that if he had followed the proper procedure of applying to his supervisors at his then station, Salt Lake City, they may have been able to supply him with an outfit car.

We need not try to interpret any rules quoted by either side in the case, because the first and most important fact on which the claim rests is not established. There is no substantial evidence upon which we can find that claimant billed out his outfit car on August 20, or any other date. Neither claimant nor

anyone else shows anything that would tend to verify this. There is no record of any kind. We do not even have the benefit of a statement from Richardson, the claimant. We have no way of knowing whether he did or did not do this and if he did, whether it was done properly.

The organization has not sustained the burden of proof.

The claim should be denied.

AWARD:

The claim is denied.

SPECIAL BOARD OF ADJUSTMENT NO. 313

(s) Marion Beatty

Marion Beatty, Chairman

(s) A. J. Cunningham

A. J. Cunningham, Organization Member

(s) A. D. Hanson

A. D. Hanson, Carrier Member

Omaha, Nebraska
November 21, 1960