

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29600
Docket No. CL-30123
93-3-91-3-717

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

(Transportation-Communications
(International Union
PARTIES TO DISPUTE: (
(Elgin, Joliet & Eastern Railway Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10644) that:

1. Carrier violated the effective agreement when it required Messrs. G. Medellin and D. Hanlon to travel away from their home station without pay to take typing tests relevant to the exercise of their seniority rights;
2. Carrier shall now compensate Mr. Medellin two (2) hours and fifteen (15) minutes' pay at the time and one-half rate, shall pay him the appropriate mileage allowance for eighty (80) miles and shall reimburse him other actual expenses of tolls to and from Joliet, Illinois for October 4, 1990; further, Carrier shall now compensate Mr. Hanlon two (2) hours' pay at the time and one-half rate, shall pay him the appropriate mileage allowance for sixty (60) miles and shall reimburse him other actual expenses of tolls to and from Joliet, Illinois for October 5, 1990."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

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

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This Claim alleges the Carrier violated the Agreement when it refused to pay two Claimants for their time spent taking a typing test and their mileage for travel to the test site.

The instant Claims derive their existence from three previous claims that were withdrawn without prejudice by the Organization. The three earlier claims challenged Carrier's refusal to allow three employees, whose incumbent jobs were abolished, to displace into Input/Output Technician (IOT) positions at Gary, Indiana. Carrier's basis for the refusal was lack of qualification.

The IOT positions were implemented by the parties in 1969 pursuant to a negotiated special agreement. The agreement is comprehensive and lengthy. It would serve no purpose to recite it verbatim here. Our review of the agreement reveals that a certain threshold of typing or key entry proficiency was necessary before a candidate would be eligible to be trained for the IOT job. None of the three employees had demonstrated the requisite proficiency or had been previously trained. After the Carrier provided the opportunity to take a typing test, the three original claims were withdrawn.

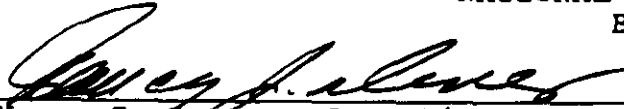
Two of the original claimants took the typing test. The test required them to travel to Joliet, Illinois. When they were not paid for their time or mileage, the two instant Claims were filed.

In claims of this nature, it is well settled that the Organization has the burden of proof to establish the basis for the Claim. On this record, no specific rule or other provision of the Agreement has been successfully cited to support the Claim. Nor has the Organization's evidence established the existence of a past practice of paying for testing time or mileage in similar situations. Under the circumstances, the Organization has not met its burden of proof. The Claim, therefore, must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of March 1993.