

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 24745

Docket No. 44432

97-1-95-1-U-1832

The First Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

(Brotherhood of Locomotive Engineers

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim of Engineer L. W. Bertsch, slip #26, dated May 27, 1993, for 122 miles runaround per First in - First out rule.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

Claim of the Organization that the Carrier violated the Agreement when they ran around Engineer Bertsch, the Claimant, on May 27, 1993, and sent Engineer Nicholson out for a second train. There is no dispute on the facts. Engineer Nicholson was performing hog relief, returning trains that had been parked en route under the Hours of Service Law. Nicholson went out and picked up his first train FWMX-26, bringing it 34 miles back to the terminal.

The Organization alleges that after that move, the Claimant was first out. Instead, Engineer Nicholson was deadheaded a second time to Phelan to pick up train 3CBTHS-22 and return it to the terminal. In running around Claimant the Carrier violated the First-In-First-Out Rule in that Engineer Nicholson had exceeded 100 miles.

The Board has reviewed the on-property record, Agreement and Awards cited by the parties. The Agreement provides no language supporting this claim. The moves encompassed herein were in hog relief and are moves long recognized as dog catch service. There is no record on property that the moves were counter to implicitly involved Article VI(K) stating:

“Engineers in pool or irregular freight service may be called to make short trips and turn-around with the understanding that one or more turn-around trips may be started out of the same terminal and paid actual miles with minimum of 100 miles for a day, provided, (1) that the mileage of all the trips does not exceed 100 miles, (2) that the distance run from the terminal to the turning pint does not exceed 25 miles, and (3) that the engineers shall not be required to begin work on succeeding trip out of the initial terminal after having been on duty eight consecutive hours, except as a new day, subject to the first-in, first-out rule or practice.

Crews to be notified when called that they are to make short trips or turn-around as provided in this paragraph.”

There is no record that these moves were by Engineers called for short trip or turnaround service as contemplated by the Article, supra. The Board finds no Rule cited by the Organization that was violated or was applicable to the type of dog catch service as herein disputed. More importantly, as indicated in prior Awards on this property, the Board finds no automatic terminal release rule that would have required the Carrier to release Engineer Nicholson after he returned from his first trip with train FWMX-26. As such, the Claimant was not runaround in violation of the Agreement and Engineer Nicholson's second trip was permissible (Public Law Board No. 1348, Award 9; Public Law Board No. 2703, Award 10; Public Law Board No. 5028, Award 3; Public Law Board No. 4450, Awards 17, 24 and 25). For all of the above reasons, the Claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Dated at Chicago, Illinois, this 21st day of January 1997.