

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 24879

Docket No. 44550

98-1-96-1-U-1899

The First Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(Brotherhood of Locomotive Engineers

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company (formerly MoPac)

STATEMENT OF CLAIM:

"Claim of Engineer D. M. Schroeder for 34 minutes initial terminal delay accrued September 13, 1995, while working as Engineer on Train CHKS-12."

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.

This dispute arose when Claimant was called to report at Dupu, Illinois, the designated on and off-duty point for road crews operating out of the St. Louis Consolidated Terminal, for an on-duty time of 0415 to work Train CHKS-12. He was engaged in securing track warrants, track bulletins, and train lists for his assignment from 0415 until 0450 (35 minutes). Thereafter, Claimant was transported via Carrier provided transportation from Dupu, Illinois to 23rd Street Yard in St. Louis, Missouri from 0450 until 0510. Upon arrival at 23rd Street Yard, he was required to perform an

engine inspection from 0450 until 0525. Upon completion of engine inspection, Claimant was required to double tracks 8, 9, and 10 together, make his train intact and perform the required initial terminal brake test before departure toward the objective terminal of Jefferson City, Missouri, at 0615. Total miles paid from Dupu, Illinois to Jefferson City, Missouri are 133.

Claimant submitted a claim of 45 minutes "initial terminal delay" on his road service time slip for the trip at issue. The timekeeping department denied that claim. The matter was then forwarded to Local Chairman K. G. Timmons for further handling. The Local Chairman amended the claim by letter of November 30, 1995, as follows:

"The determining concept in the [Agreement] is, and I quote from the third paragraph:

'Where mileage is allowed between the point of reporting for duty and the point of departure from the track on which the train is first made up, each mile so allowed will extend by 4.8 minutes the period of one (1) hour and fifteen (15) minutes after which initial terminal delay payment begins.' (emphasis added)

The total mileage allowed, as described in the preceding quote is three miles.

The applicable divisor, now that the miles comprising the basic day [are] 130, is 3.7 minutes per mile paid in excess of the miles allowed. Three miles paid above miles allowed equates to 11 minutes additional time given before initial terminal delay time will commence. Therefore, 1 hour 26 minutes is the correct amount of time allowed, after which initial terminal delay time is due when claimant[s] depart St. Louis Terminal at any location other than Dupu, Illinois.

I therefore request this claim for 45 minutes initial terminal delay be amended to 34 minutes and placed in line for payment in conformance with the above or held for further discussion." (emphasis in original)

The language of Article 4 of the Schedule Agreement (quoted above in the Organization's letter to Carrier) is clear:

"(a) Initial terminal delay shall be paid on a minute basis to engineers and firemen, and helpers on other than steam power, in through freight service after one (1) hour and fifteen (15) minutes, unpaid terminal time has elapsed from the time of reporting for duty up to the time the train leaves the terminal, at one-eighth (1/8th) of the basic daily rate, according to the class of engine used, in addition to the full mileage, with the understanding that the actual time consumed in the performance of service in the initial terminal for which an arbitrary allowance of any kind is paid shall be deducted from the initial terminal time under this rule.

* * *

Where mileage is allowed between the point of reporting for duty and the point of departure from the track on which the train is first made up, each mile so allowed will extend by 4.8 minutes the period of one (1) hour and fifteen (15) minutes after which initial terminal delay payment begins."

In the case at issue, Claimant was compensated 3 miles beyond the basic daily rate of 130 miles. While the Carrier maintains that the mileage paid is 11 miles beyond the distance between the 23rd Street Yard and Jefferson City, Missouri, that argument is dismissed by the well-reasoned holding of Referee John LaRocco in his decision regarding the "run-around" payment rule (Brotherhood of Locomotive Engineers v. National Carrier's Conference Committee, Informal Disputes Committee Issue No. 20 [undated]).

It is unrefuted that Claimant was compensated for 133 miles. The three additional miles for which he was compensated beyond the "new" basic daily rate extend the time prior to eligibility for initial terminal delay pay by 11 minutes ($3 \times 3.7 = 11.1$), resulting in a remainder of 34 minutes' initial terminal delay pay (120 minutes less 86 minutes), to which Claimant is entitled.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Dated at Chicago, Illinois, this 5th day of February 1998.