

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 25066
Docket No. 41638
99-1-971-s-6747

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

(United Transportation Union
PARTIES TO DISPUTE: (
(Soo Line Railroad Company

STATEMENT OF CLAIM:

“Claim in behalf of Conductor H. R. McCordell for 50 miles runaround on February 14, 1996.”

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.

The dispute at issue arises from a contention that Article 83, Run Around—Freight Service, and Section (a) of Article 97, Unassigned or Pool Service, of the 1973 General Labor Agreement between the parties intends that a crew standing second out is entitled to the same compensatory penalty as a crew that stands first out for service and is runaround in a crew call for service.

Article 83 reads:

"Conductors and brakemen run around at terminals, when available, will be allowed payment of fifty miles at the rate of pay applicable to the service they would have performed, and stand first out. It is expected that conductors and brakemen will depart on the train for which called, and if passed in the yard by other conductors or brakemen, will not be considered as having been run around."

Article 97, Section (a), reads:

"Conductors and brakemen in pool or unassigned freight service shall, when available run first-in, first-out. In no case will pool or unassigned freight crews be run off their respective freight divisions except in cases of extreme emergency. Conductors and brakemen will be considered as arriving in the terminal at the time they are registered off duty."

Argument such as that offered by the Organization in advancement of its claim have many times been considered by this Division and other boards of adjustment. Although awards sustaining claims for runarounds in which the claimants were not first out have been rendered, the overwhelming majority of awards have rejected a so-called "chain reaction" argument for rules that read essentially the same as those involved in this case. These latter referenced awards have generally held that a meaning such as that contended for by the Organization in this case would lead to an absurd interpretation of the language of such rules. In this respect, we especially note the Findings of Award No. 143 of SBA No. 107, UTU-NWP, with the Honorable Jacob Seidenberg serving as the chair, wherein it was stated:

"It is apparent these sort of claims could be never ending. If a dispatcher made one innocent error, it could result in a continuous sequence of claims by every trainman who could contend that if the error had not been made, he would have been used for service other than what he performed. It could involve a tremendous task of reconstructing a given situation, especially if the prior mistake was not discovered immediately.

The weight of currently decided cases clearly show that secondary claimants, relying on an original mishandling, do not have supportable claims."

Certainly, as concerns Article 83 in the instant dispute it is clear that the parties intended only that the employee who was first out would be covered by such rule in having stated that such individual would be entitled to a fifty mile runaround payment and remain or stand first-out. The rule is silent with respect to other individuals on the list who do not stand first-out. For the rule to have intended multiple runaround payments or the construction here urged by the Organization, it would seem that instead of limiting its reference to the employee who stands and would remain first-out on the list, that the language of the rule would have stated something to the effect that all employees affected by the runaround would remain or stand in place in their respective order on the list.

There being no question that the Claimant herein was not first out for the service in question, the claim will 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 8th day of November 1999.