

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25145

Docket No. 44815

00-1-99-1-U-2077

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

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
(Union Pacific Railroad Company (former Missouri
(Pacific Railroad)

STATEMENT OF CLAIM:

"Claim of Engineer B. R. Collins for a yard day account working as yard Engineer when instructed to take Train MLDNL08 out of Texarkana Yard to Holman siding."

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.

There is no dispute as to the facts in this case. The Claimant was working as a Yard Engineer on October 10, 1997 when required to take Train MLDNL08 from Texarkana Yard to Holman Siding, which is outside switching limits. The only dispute is what payment is due the Claimant. The Organization wants a days pay. The Carrier argues the Claimant should just be allowed the time used in road service. Article 15 of the Schedule Agreement applies in this case, in particular paragraph c, which reads:

“c. Where regularly assigned to perform service within switching limits, yard men shall not be used in road service when road crews are available, except in case of emergency. When yard crews are used in road service under conditions just referred to, they shall be paid miles or hours, whichever is the greater, with a minimum of one hour, for the class of service performed, in addition to the regular yard pay and without any deduction therefrom for the time consumed in said service.”

The Carrier does not argue that an emergency existed or that road crews were unavailable.

Both parties cite numerous awards to support their positions. The Carrier relies on General Order No. 27 and various Supplements thereto. While the Carrier's argument is a scholarly work, its conclusion is not correct.

The Organization has cited several Awards of this Board involving the same parties and Rule where a claim for a day's pay was sustained. The Awards cited by the Carrier did not involve Rule 15(c) of the Agreement.

This Board has held in numerous Awards that the proper payment for violations of the Agreement in cases such as this, is a day's pay.

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 13th day of July, 2000.