

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION

Award No. 25190

Docket No. 44875

00-1-99-1-N-2256

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

(Richard T. Clark  
PARTIES TO DISPUTE: (  
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

"C-2 Protective benefits in connection with Amtrak's reduction of the Pioneer to tri-weekly operation in 1994. Claim lost wages from April 1994 through February 1995. Claim is also for moving expenses from Pendleton OR. Expenses of buying and selling of a house as a result of relocating. The cost of insurance that was disallowed to employee while off and to insure children while attending school. And 4 weeks vacation time that was disallowed in 1995."

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 Claimant was assigned as a Locomotive Engineer headquartered at Pendleton, Oregon. Prior to November 1993 the Carrier operated Trains 25/26 on a daily basis. In November 1993 the Carrier reduced the daily service to tri-weekly. The Claimant was number ten in seniority at Pendleton. As a result of the change in service

the Claimant was furloughed on April 24, 1994. As a result the Claimant filed for benefits under the provisions of Appendix C-2.

The Carrier declined the C-2 benefits on the basis that the Claimant was not involved in a transaction as described by the conditions. After handling the case on the property the Claimant appealed the case to the Board.

The Carrier argues that the case is improperly before the Board. It argues that Article IX(6) of Appendix C-2 requires a dispute of this nature must be progressed to a Public Law Board. Because it requires both the Union and the Carrier to establish a Public Law Board, the Board has historically accepted claims from individuals involving Appendix C-2. Therefore, we will reject the Carrier's argument as to the lack of jurisdiction.

Appendix C-2 provides benefits to Amtrak employees affected by the discontinuance of Intercity Rail Passenger Service, called a transaction, which is defined in the Appendix as follows:

- (a) "Transaction" means a discontinuance of Intercity Rail Passenger Service, as defined in the Act, effected after assumption of operations pursuant to the provisions of the Act.

In 1986 Congress amended Appendix C-2 further defining a transaction. The change reads:

"(2) With respect to Amtrak's obligations under this subsection and in an agreement to carry out this subsection involving only Amtrak and its employees, a discontinuance of intercity rail passenger service does not include an adjustment in frequency, or seasonal suspension of intercity rail passenger trains that causes a temporary suspension of service, unless the adjustment or suspension reduces passenger train operations on a particular route to fewer than 3 round trips a week at any time during the a calendar year. 49U.S.C. 24706(c)."

The Claimant argues the reduction to tri-weekly was a temporary reduction and as such he is entitled to the C-2 benefits.

The Carrier argues the change to tri-weekly service was not a transaction that triggers benefits.

The Claimant has the burden to prove his case. He has failed to do so. He fails to cite any interpretation that supports his position. In fact the Rule is clear and unambiguous. Reductions in service do not include adjustments in frequency unless the reduction reduces passenger train operations to fewer than three round trips a week. The change in frequency for Trains 25/26 still left a tri-weekly operation.

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 5th day of March, 2001.