

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 25212

Docket No. 44865

01-1-99-1-U-2114

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

(Brotherhood of Locomotive Engineers)

PARTIES TO DISPUTE: ((Union Pacific Railroad Company (former Chicago and
(Northwestern Transportation Company)**STATEMENT OF CLAIM:**

"Claim in behalf of Engineer R. C. Benedict, SS No. 321-36-2523, Chicago Freight Terminal for 8 hours on March 21, 1998. Claim resulted when Engineer Benedict, while assigned to Job PR61, was instructed by General Yardmaster Yard 9, T. Betts, to throw the switches in the yard including the 20 Main to 19 Main, Lower Crossover Switches, while Conductor G. Miller was approximately 15 cars away and there was one utility man in Yard 9 at the north end on duty, Mr. J. Grosso.

Claim in behalf of Engineer R. C. Benedict for 8 hours on April 27, 1998 while assigned to Job PR61 at Proviso Yard. General Yardmaster in Yard 9, Mr. T. Keller, instructed Engineer Benedict to throw switches in Yard 9 including the 19 Main new connection switches while Conductor G. Miller was approximately 20 cars away and utility man UT26 was on duty at the north end of Yard 9.

Claim in behalf of Engineer R. C. Benedict for 8 hours while working Job G205 on May 27, 1998. Claim resulted when Engineer Benedict was instructed by Tower Supervisor of Yard Operations, M. Burica to throw switches in the Yard including the 29 Main switch and the connection off of Track 25 in Yard 9. The utility man in Yard 9, UT26, K. Nulf, was approximately 20 cars away at the south end of the yard and the Global 2 utility man, UT204, K. Matthews, was located approximately 30 cars away.

Claim in behalf of Engineer R. C. Benedict for 8 hours on May 26, 1998. The claim resulted when Engineer Benedict, while assigned to Job G205, was instructed by the General Yardmaster in Yard 9, Mr. L. Bryson, and Manager of Train Operations, P. Fields, to throw switches in the yard including the 25 - 29 switch and the 29 switch and the 29 crossover switch in Yard 9 while Conductor N. Johnson was approximately 30 cars away and there was one utility man in Yard 9, position UT26, K. Nulf who was approximately 20 cars away at the south end of the yard and Global 2 utility man, UT204 was approximately 30 cars away.

Claim in behalf of Engineer R. C. Benedict for 8 hours on May 6, 1998. The claim resulted when Engineer Benedict, while assigned to Job G206, was instructed by the Global 2 Yard, Manager of Yard Operations, B. Zilinski, to throw the switches in the yard including the 18 in Yard 2 connection switch for headroom while Conductor E. Klawitter was approximately 15 cars away, making a cut on Track 9 in Yard 2. Global 2 utility man, UT 204, B. Beard was approximately 30 cars away in Yard 2.

Claim in behalf of Engineer R. C. Benedict, for 8 hours on July 5, 1998. This claim resulted when Engineer Benedict, while assigned to Job No. G206, was instructed by the Tower Yard Manager of Yard Operations, M. Raines, to throw switches in the yard including the 1 -5 lead switch and the 19 main yard crossover switch at the east end of Yard 4 for headroom while his conductor, Mr. T. Dobbie, was approximately 7 cars away making a setover of a track in Yard 4. Global 2 utility man, UT204, B. Beard, was approximately 70 cars away in Yard 2.

Claim in behalf of Engineer R. C. Benedict for 8 hours on June 2, 1998. This claim resulted when Engineer Benedict, while assigned to Job G205, was instructed by the Tower Yard Manager of Yard Operations, R. Akers, to throw switches in the yard including the 29 main, 25 switch. BR9 utility man, UT26, M. Rogge, was approximately 30 cars away at the south end of the yard at the North Avenue Shanty and the Global 2 utility man, UT207, G. White, was approximately 30 cars away at the County Line.

Claim in behalf of Engineer R. C. Benedict for 8 hours on June 3, 1998. This claim resulted when Engineer Benedict, while assigned to Job No. G205, was instructed by the Tower Yard, Supervisor of Yard Operations, M. Burica, to throw switches in the yard including the 29 main switch, at 7:11 p.m. The utility man in Yard 9, UT26, M. Rogge, was approximately 30 cars away at the south end of the yard at the North Avenue Shanty and the Global 2 utility man, UT 204 was approximately 35 cars away in Global 2 Yard.

Claim in behalf of Engineer R. C. Benedict for 8 hours on June 10, 1998. Engineer Benedict was assigned to Job G205 when the Tower Yard, Supervisor of Yard Operations, M. Burica, ordered Engineer Benedict to throw switches in the yard including the KP Lead and the 29 main switches at 6:27 p.m. The utility man in Yard 9, UT26, Mr. J. Egan, was approximately 20 cars away at the south end of the yard at the North Avenue Yard Office and the Global 2 utility man, UT204, G. Naqvi, was approximately 40 cars away at the east end of the KP Lead Switch at County Line.

Claim in behalf of Engineer K. J. Cummins, SS No. 337-74-3134, for 8 hours yard rate on May 16, 1998. Engineer Cummins was assigned to Job No. PR51 on the date of claim. The General Yardmaster in Yard 9, Mr. L. Bryson, ordered claimant to throw switches in the yard including the 19 and 20 main yard track crossover switches in Yard 9 at 1:30 p.m. Claimant's conductor was approximately 15 cars away and there was one utility man in Yard 9, UT25 at the south end of the yard.

Claims are premised upon the 1986 Arbitration Award 458, Article VIII, Section 3, Side Letter 7 and Award No. 24288 and 24295 of the First Division, National Railroad Adjustment Board, Award 8 of Public Law Board 5263 and Award 10 of Public Law Board No. 5089."

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 docket includes ten factually distinct claims, nine claims on behalf of Chicago Yard Engineer and BLE Local Chairman R. C. Benedict and one claim on behalf of Chicago Yard Engineer K. J. Cummins. Each claim is for a basic day (some at the overtime rate of pay) on various claim dates for handling switches under facts and circumstances which are in most of the cases disputed and in controversy. Each of these ten cases involve different factual allegations and each arose on various dates from late March 1998 through early July 1998. All of these claims were progressed on appeal by BLE Local Chairman R. C. Benedict, in some cases prior to the Carrier's declination of the initial claim by the Carrier's Timekeeping Bureau (Payroll Department).

BLE General Chairman B. D. MacArthur included each of these claims in a conference docket sent to the Carrier's designated representative, Assistant Director Labor Relations L. L. Saunders, on July 31, 1998. The claims were then discussed individually in conference on March 23, 1999, and subsequently individually declined. On July 20, 1999, General Chairman MacArthur sent a Notice of Intent to the First Division of the National Railroad Adjustment Board requesting final adjudication of all ten disputes.

At the outset, the Carrier took exception to the unilateral consolidation or bundling of these individual factually distinct claims for presentation as a single dispute to the First Division. It is not unprecedented for this Division and other Board tribunals to permit the combination of separate but factually linked claims into a single contract interpretation dispute, in the interests of administrative efficiency and economy. See, First Division Award 24530 and Third Division Award 31456. On the other hand, the Board has also warned that inappropriate combinations of factually diverse and/or unrelated claims will result in dismissal for failure to handle the disputes in the "usual manner," as envisioned by the Railway Labor Act and the Rules of the Board. See, Third Division Award 33016.

In our considered judgement, the block of cases presented in this matter falls into the latter category because it would necessitate ten separate findings of fact before the Board could reach the point of applying the largely uncontested Agreement language. This Board has resisted an "always/never" boilerplate analysis of these kinds of cases. Rather than being administratively efficient and economical to handle such cases in a bloc, it is manifest that these "present and available" types of cases are sui generis in that each turns on application of Agreement language to a particular set of facts and circumstances. Based upon all of the foregoing, the Board shall grant the Carrier's motion to dismiss these claims on jurisdictional/procedural grounds without further comment on the underlying merits.

AWARD

Claim dismissed.

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 14th day of May, 2001.