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NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25447
Docket No. 45717
03-1-02-1-G-1722

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

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
(Gateway Western Railway

STATEMENT OF CLAIM:

"Claim of Gateway Western Railway Conductor J. S. Early for one (1) basic day in excess of all other earnings on September 9, 2000 account he was forced to work short-handed as a Conductor only on the Slater Local in violation of the UTU Agreement — identified as Carrier File No. G01012396."

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.

At the time of the incident that gave rise to this case, Claimant J. S. Early was working as a Conductor on the Slater Local. The Slater Local is a job with a crew consist of a Conductor and a Brakeman. The Carrier does not dispute the fact that the Claimant worked his assignment on a Conductor-only basis, but contends that

he is the wrong Claimant in the case. The Carrier argues that the Claimant worked his assignment and was properly paid.

It states that the proper Claimant in the case would be the first out Extra Board employee or an available rested Trainman on his rest day.

The Organization simply argues that the Claimant worked the job shorthanded. He in effect performed the work of two men. It points out that the parties' Agreement contains a clause that authorizes payment to the Claimant under such a situation. It is Rule 40(g). Rule 40(g) reads:

“(g) Unless otherwise provided for herein, it is expressly understood that any claim for compensation submitted to the Carrier on account of a violation of this agreement and subsequently found to be valid will be paid on the basis of not less than a basic day's pay at the applicable rate for each day covered by the claim.”

The Board reviewed the record and has considered each party's arguments. As a result of this review, the Board is persuaded that the facts of this record weigh heavily in favor of sustaining the claim. The arguments presented by the Carrier have been put forth over the years by many Carriers involved with crew consist claims. On many occasions, the Board has sustained claims where crew members worked shorthanded. The reason behind many of the claims that the Board has sustained address the need for the Carrier to be reminded that it must not operate outside the terms of the Agreement. The Board concludes that message is appropriate to send in this instance as well.

AWARD

Claim sustained.

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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 20th day of August 2003.