

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25449

Docket No. 45719

03-1-02-1-M-2096

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
(MidSouth Rail Corporation (Kansas City Southern)

STATEMENT OF CLAIM:

"Claim of MidSouth Rail Engineer A.R. Aycock for an additional \$11.93 per day (totaling \$226.67) on various dates in November and December 2000 while working Job 6 (YMN 201)."

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.

On or about November 1, 2000, Claimant A. R. Aycock made a seniority move to the 2:30 P.M. (YMN 201) Road Switcher assignment at Monroe, Louisiana. At some point in the Claimant's assignment, the record indicates that he learned that the Conductor on the assignment received an allowance of \$11.93 for doing footboard Yardmaster work. This \$11.93 payment increased the pay of the Conductor \$11.93 above the Engineer's daily rate. As a result of this pay differential, the Claimant filed a claim for \$11.93 on each day he worked Job 6

Form 1
Page 2

Award No. 25449
Docket No. 45719
03-1-02-1-M-2096

during November and December 2000. The Claimant submitted 19 time slips for \$11.93 each (total of \$226.67). All claims were denied on December 26, 2000. The record also indicates that upon receiving the claims, the practice of paying the Conductor on the job the \$11.93 Footboard Yardmaster rate was stopped.

The Claimant, who is also the Local Chairman for the BLE, based his claims on Article IV, Rule 57, Certification Pay:

"Engineers on MidSouth Rail Corporation who possess FRA Certification will receive an allowance of \$5.00 per tour of duty worked. This allowance will not be subject to adjustment by cost-of-living adjustments or general wage increases. This certification allowance will provide the engineer no less than \$5.00 in additional compensation per tour of duty than the compensation earned, exclusive of penalties, by any other train crew member."

In effect, what the Organization's claim is requesting is \$5.00 more pay per day for the Engineer than the Conductor on the job receives. If the Conductor is receiving \$11.93 additional pay for Footboard Yardmaster work, then that \$11.93 must be added to the Engineer's pay as well. The Engineer must receive \$5.00 more per day than other crew members receive. This, as Article 57 states, excludes any penalty pay the crew member might receive.

The Carrier denied the claim stating that there is no Footboard Yardmaster Agreement in Monroe, Louisiana, and that the Organization has misinterpreted Article IV, Rule 57, of the Agreement. It also argued that if the claim is valid, it should have been filed by the Engineer who held the job prior to the Claimant taking over on November 1, 2000. The Carrier also made much of the fact that the Organization did not submit the pay records of the Conductor to prove that he did in fact receive \$11.93 more than the Engineer.

The Board has reviewed this case in detail. It has considered all of the arguments presented by the parties. As a result of the Board's review, it has concluded that Article IV, Rule 57, has been interpreted properly by the Organization and that the Claimant is due the \$11.93 for each day specified in the record that he worked.

Form 1
Page 3

Award No. 25449
Docket No. 45719
03-1-02-1-M-2096

Based on the total record, the Board has concluded that an Agreement did exist at Monroe, Louisiana, to pay the Conductor on Job 6 an additional \$11.93 under a Footboard Yardmaster Agreement. Given that conclusion, the Board is compelled to apply Rule 57 as written and maintain the pay differential for Engineers stated therein.

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 20th day of August 2003.