

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25463

Docket No. 44942

03-1-00-1-U-2152

The First Division consisted of the regular members and in addition Referee Ann S. Kenis when award was rendered.

(Brotherhood of Locomotive Engineers

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

STATEMENT OF CLAIM:

- "1. Claim of Engineer A. C. Alvis (330-66-9032) for \$513.52 account required to perform Hours of Service Relief on train ADVPR-23 on June 26, 1998 and required to work train ZYCHO-27 on June 27, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer A.C. Alvis to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145836 - Timekeeping Declination No. UI0704154 and UI0704155).
2. Claim of Engineer E. M. Bryant (344-56-2340) for \$761.42 account required to perform Hours of Service Relief on train MNLPR-26 on June 26, 1998 and required to work train ZYCFW-28 on June 28, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the

relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer E.M. Bryant to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145835 - Timekeeping Declination No. UI0704990 and UI0704991).

3. Claim of Engineer T. A. Morrison (336-46-9937) for \$609.28 account required to perform Hours of Service Relief on train CRLSO-19 on June 21, 1998 and required to work train MNPEW-20 on June 23, 1998 from South Pekin, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer T.A. Morrison to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145829 - Timekeeping Declination No. UI0704169 and UI0704170).
4. Claim of Engineer V. A. Stoker (319-60-1618) for \$618.16 account required to perform Hours of Service Relief on train MNLPR-31 on June 01, 1998 and required to work train ZYCFW-02 on June 02, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool).

Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer V.A. Stoker to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145816 - Timekeeping Declination No. UI0704429 and UI0704430).

5. Claim of Engineer J. S. Williams (409-80-9516) for \$855.48 account required to perform Hours of Service Relief on train ZHOYC-30 on July 01, 1998 and required to work train MYCASX-02 on July 03, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer J.S. Williams to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145728 - Timekeeping Declination No. UI0704511 and UI0704512).
6. Claim of Engineer C. E. Thomas (340-44-8082) for \$776.47 account required to perform Hours of Service Relief on train MASYC-17 on June 18, 1998 and required to work train ZYCMQ-20 on June 20, 1998 from Chicago, IL. back to Salem,

IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer C.E. Thomas to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145726 - Timekeeping Declination No. UI0704718 and UI0704719).

7. Claim of Engineer C. E. Thomas (340-44-8082) for \$635.02 account required to perform Hours of Service Relief on train MASYC-14 on June 15, 1998 and required to work train ZYCMX-17 on June 17, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer C.E. Thomas to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145725 - Timekeeping Declination No. UI0704720 and UI0704721).
8. Claim of Engineer C. E. Thomas (340-44-8082) for \$769.54 account required to perform Hours of Service Relief on train

ZMQYC-26 on June 27, 1998 and required to work train ZYCHO-28 on June 28, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer C.E. Thomas to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145724 - Timekeeping Declination No. UI0704722 and UI0704723).

9. Claim of Engineer R. E. Shepard (347-34-3530) for \$737.83 account required to perform Hours of Service Relief on train ZMXYC-17 on June 20, 1998 and required to work train AYCMX-21 on June 21, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer R.E. Shepard to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145723 - Timekeeping Declination No. UI0704950 and UI0704951).

10. Claim of Engineer C. R. Simpson (361-34-2248) for \$701.87 account required to perform Hours of Service Relief on train CCMWF-27 on July 02, 1998 and required to work train CCMWF-27 on July 04, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer C.R. Simpson to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145741 - Timekeeping Declination No. UI0704146 and UI0704147).
11. Claim of Engineer G. W. Pate (323-52-9077) for \$663.80 account required to perform Hours of Service Relief on train CZ1WF-22 on June 24, 1998 and required to work train DH51-26 on June 26, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer G.W. Pate to his home terminal (St. Louis) immediately upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145742 - Timekeeping Declination No. UI0704825 and UI0704826).

12. Claim of Engineer G. W. Pate (323-52-9077) for \$591.99 account required to perform Hours of Service Relief on train CRLSO-12 on June 14, 1998 and required to work train CBTCJ-12 on June 26, 1998 from South Pekin, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/South Pekin/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer G.W. Pate to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145743 - Timekeeping Declination No. UI0704827 and UI0704828).
13. Claim of Engineer G. W. Pate (323-52-9077) for \$485.85 account required to perform Hours of Service Relief on train GESLML-17 on June 21, 1998 and required to work train CSVTV-18 on June 22, 1998 from South Pekin, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/South Pekin/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer G.W. Pate to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File

No. 1145744 - Timekeeping Declination No. UI0704829 and UI0704830).

14. Claim of Engineer W. A. Taylor (355-46-7034) for \$1069.44 account required to perform Hours of Service Relief on train CCMWF-26 on June 30, 1998 and required to work train IYCLAX-01 on July 01, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer W.A. Taylor to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145758 - Timekeeping Declination No. UI0717219 and UI0717220).
15. Claim of Engineer M. W. Landes (429-49-6564) for \$609.56 account required to perform Hours of Service Relief on train MNLGF-25 on June 26, 1998 and required to work train AYCMX-28 on June 28, 1998 from Chicago, IL. back to Salem, IL while working a regularly assigned ID Pool (RE-50 - Salem/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer M.W. Landes to his home terminal (Salem) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and

available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145759 - Timekeeping Declination No. UI0704272 and UI0704273).

16. Claim of Engineer C. E. Pearman (318-52-0279) for \$504.06 account required to perform Hours of Service Relief on train GEMAME-30 on July 02, 1998 and required to work train MNPES-01 on July 03, 1998 from South Pekin, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/South Pekin/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer G.W. Pate to his home terminal (St. Louis) immediately upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further, claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145795 - Timekeeping Declination No. UI0717258 and UI0717259).
17. Claim of Engineer B. L. South (357-62-2125) for \$666.82 account required to perform Hours of Service Relief on train ZMQYC-11 on March 12, 1998 and required to work train MPRAS-12 on March 14, 1998 from Chicago, IL. back to St. Louis, MO. while working a regularly assigned ID Pool (RE-58 - St. Louis/Chicago ID Pool). Claim all earnings from this trip to be paid in addition to/not offset by any guaranteed earnings for the relevant pay period as required by Section 12, Question 9/Answer 9 of Arbitration Award No. 553. In addition, claim a basic day penalty account the Carrier did not deadhead Engineer B.L. South to his home terminal (St. Louis) upon completion of this Hours of Service Relief as required by Section 9, Question 1/Answer 1 of Arbitration Award No. 553. Further,

claim a basic day penalty account the Carrier used an ID crew to perform Hours of Service Relief with other sources rested and available in violation of Section 9, Question 1/Answer 1 and Section 12, Question 8/Answer 8. (Carrier Labor Relations File No. 1145817 - Timekeeping Declination No. UI0704523 and UI0704524)."

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.

All 17 claims deal with the Carrier's operation of Interdivisional service between St. Louis, Missouri, and Chicago, Illinois, and Salem, Illinois, and Chicago, Illinois. The Organization contends that the Carrier violated the February 28, 1995 Award of Arbitration Board No. 553 when the Claimants, who were assigned to the ID pool, were called to provide Hours of Service Relief. It is the Organization's position that the Claimants were improperly used to perform this service, and, having been used, were not properly compensated because the Carrier incorrectly used the earnings from these trips as an offset to the guarantee for the relevant pay period. In addition, the Organization argues that a basic day penalty is appropriate to remedy the Agreement violation. The Organization further claims a second basic day penalty as a result of the fact that the Claimants were not deadheaded to their home terminal after completing their Hours of Service Relief assignment.

The Carrier objects at the outset to the combination of claims before the Board. The objection would have merit if there were material factual disputes which required individual examination, or if there were varying and disparate issues which the Organization was attempting to mesh together into a consolidated

claim before the Board. However, the claims in this case present the same fact scenarios and the same issues. In the interest of economy and efficiency, we conclude that these consolidated claims are properly before the Board for determination.

Additional arguments raised by the Carrier have already been thoroughly addressed in First Division Awards 25175; 25176; 25177 and First Division Awards 25460, 25461 and 25462. The Board's findings in those cases are incorporated herein. Based on these earlier decisions, a sustaining Award shall issue, as follows.

The Award of Arbitration Board No. 553 provides that earnings when used in other than ID Service will not be counted as an offset to the employee's guarantee payments. To the extent that the Carrier has offset non-ID earnings against the Claimants' guarantees in the instant claims, the Agreement has been violated and the Carrier is directed to properly compensate the Claimants.

Further, Section 9 of Arbitration Board No. 553 provides that crews assigned in ID service will not be used for Hours of Service Relief until all other primary sources of employees available for this work have been exhausted. The record contains no showing that the other primary sources had been exhausted on the dates claimed. We find that the Carrier violated the terms of the Agreement, Section 9, when the Claimants, who were assigned to the ID pool, were used for Hours of Service Relief when employees from primary sources were available to perform this relief. A basic day penalty is assessed for this Agreement violation.

Finally, in accordance with the language of Section 9, Question and Answer No. 1, the Carrier was responsible to deadhead the Claimants to their home terminals upon completion of the service. The record indicates that the Claimants were not deadheaded to their home terminals upon completion of their Hours of Service Relief assignment. A basic day penalty is assessed for this Agreement violation.

These basic day penalty payments shall not be used in computing the Claimants' guarantees.

Form 1
Page 12

Award No. 25463
Docket No. 44942
03-1-00-1-U-2152

AWARD

Claim sustained in accordance with the Findings.

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.