

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25923

Docket No. 44997

03-1-00-1-U-2191

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:

"1189687	1189686	1189685	1189684	1189683	1189682
1189681	1181998	1180999	1181000	1181001	1181002
1181003	1181004	1181005	1181006	1181007	1181008
1181051	1181049	1181050	1181037	1181038	1181039
1181040	1181041	1181042	1181043	1181044	1181045
1181046	1181047	1181019	1181020	1181021	1181022
1181023	1181024	1181029	1181030	1181011	1181012
1181013	1181014	1181015	1181016	1181017	1181018
1181009	1181010	1180737	1180738	1180739	1180740
1180741	1180742	1180743	1180744		

Claim for various engineers, various dates, for a basic day penalty, each date claimed by each engineer, account the Carrier failed to provide a copy of the MPUL Scheduled Agreement Book to each affected engineer in the St. Louis Hub, prior to the implementation of the St. Louis Hub Merger Implementing Agreement (November 01, 1998) in violation of Article VI and Side Letter No. 3 and no. 9 of the St. Louis Hub Merger Implementing Agreement of the union Pacific/Southern Pacific Merger. Claims Handling Process dated March 21, 1996."

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 claims listed in this case seek a basic day's penalty for each day that the Claimants were not provided a copy of the Collective Bargaining Agreement by November 1, 1998, the implementation date of the St. Louis Hub, as agreed in Side Letter 3 of the St. Louis Hub Merger Agreement.

After reviewing the record, the Board finds that the claims herein are a repetition of the claim progressed to the Board in First Division Award 25465. The claim adjudicated by Award 25465 concerned the same issue, facts and controlling Agreement language. In that case, the Board held that the Agreement was violated when the affected employees were not timely provided with copies of the Agreement. However, the Board declined to award damages in the absence of any demonstrable injury suffered by the Claimants or bad faith on the part of the Carrier.

Award 25465 is not palpably erroneous and in the interests of stability, finality, and predictability, it shall be followed.

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 29th day of October 2003.