

PUBLIC LAW BOARD NO. 4450

AWARD NO. 25
NMB CASE NO. 25
UNION CASE NO. C - 800 278
COMPANY CASE NO. 9202649

PARTIES TO THE DISPUTE:

UNION PACIFIC RAILROAD COMPANY
Western Division
(Feather River Division)

- and -

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

STATEMENT OF CLAIM:

Claim of Engineer W. C. Reed for 100 miles account runaround as shown on timeslip No. 100 dated May 27, 1992.

OPINION OF BOARD:

On May 27, 1992, the date giving rise to this dispute, Engineer T. P. McCarthy was first out on the Portola Engineer's Extra Board and W. C. Reed (Claimant) stood second out.

Engineer McCarthy was called in unassigned service at 17:20 to dogcatch Carrier's GESTCB train whose crew's time had expired under the Hours of Service and completed the first dogcatch at 20:00 same date. Engineer McCarthy was used on a multiple dogcatch at 20:10 to bring in Carrier's OGST train whose crew's time had also expired under the Hours of Service. Following the second dogcatch by Engineer McCarthy, Engineer Reed filed a claim alleging he was first out and should have been called for the second dogcatch, citing BLE Rule 91, quoted below:

Run Around Rule 91. (Revised October 16, 1955.) Engineers, who through no fault of their own are run around at terminals by engineers in like service, shall be allowed one (1) day's pay, 100 miles at the classified locomotive rate for the service they should have been called for and stand first out.

(Notes effective June 16, 1950.)

Note: At points where pool crew or extra men work in both directions it is not considered a runaround if the crew or man not first-out leaves the terminal in a different direction from the crew or man called ahead of him.

Note: In case of deadhead by passenger train or comparable transportation, crews or men will be called in the order they are expected to leave the terminal regardless of time on duty or time deadhead is to start.

The claim was denied by Regional Timekeeping on June 21, M. G. Holt appealed the denial to Assistant Director D. J. Gonzales. Mr. Gonzales denied the appeal by letter dated November 6, 1992 stating:

The rule does not prohibit a second trip out of the home terminal provided both trips are in relief service (dog catches). See Award 10 of PLB 2703.

Claimant was second out on the Portola Engineers' Guaranteed Extra Board at the time the first Hours of Service Relief was completed by Engineer McCarthy. The Organization alleges that Engineer McCarthy should have been released and that Claimant should have been called for the second dogcatch. For not being so called, Claimant asserts that was runaround, citing Rule 91. The Carrier on the other hand argues that the Portola Guaranteed Extra Board Agreement, coupled with Rule 40 of the BLE Basic Agreement, allows multiple dogcatching as was done in the instant case.

This claim presents yet another variation on a series of related claims by Engineers alleging violations of various rules when Carrier utilized Engineers called in "unassigned service" to

perform multiple dog catch/fly catch assignments during a single tour of duty and compensated the Engineer on a continuous time basis. In this particular case the "runaround" claim of the second-out Engineer, Mr. Reed, is premised upon an assumption that the first-out Engineer was improperly utilized and compensated when not paid a separate basic day for making the second dog catch of his tour of duty.

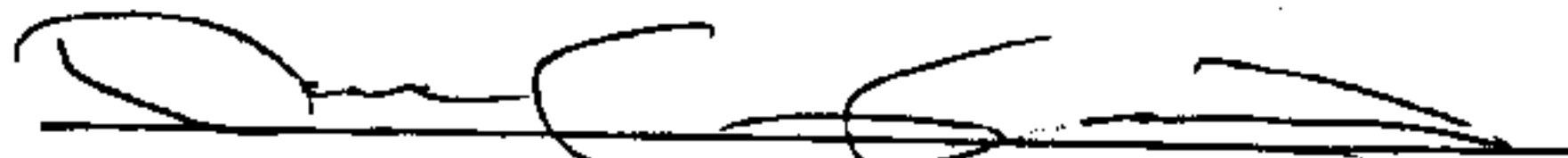
The claim of the second-out Engineer, Mr. Reed, must rise or fall with the determination whether the first-out Engineer, Mr. McCarthy, was properly used and paid for the service he performed on May 27, 1992. Following the lead of prior arbitration precedents by PLB 1348-9, NRAB 1-22873, PLB 2703-10 and PLB 5028-3, construing virtually identical contract language and identical circumstances, this Board has denied claims of Engineers utilized in the manner in which first-out Engineer McCarthy was utilized in this case. Under the holdings of the cited decisions, Mr. McCarthy was properly utilized and compensated. Accordingly, Mr. Reed's claim must fail for lack of contractual support.

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COMPANY CASE NO. 9202649

4

AWARD

Claim denied.



Dana Edward Elschen, Chairman

Dated at Ithaca, New York on December 2, 1994



Union Member

Dated at 12/14/94
on _____



Company Member

Dated at Springfield
on 12/14/94