

PUBLIC LAW BOARD NO. 4975

Award No. 34

Case No. 34

PARTIES TO DISPUTE:

UNITED TRANSPORTATION UNION

and

CSX TRANSPORTATION, INC.

Statement of Claim

Claim of Conductor P. A. Outlaw, ID 149287, and Brakeman F. L. Crawford, ID 162518, for a yard day under Code 97, for performing work not in connection with the assignment of Q602 a through freight.

Findings

The Board, upon consideration of the entire record and all of the evidence, finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended; that this Board has jurisdiction over the dispute involved herein; and that the parties to said dispute were given due and proper notice of hearing thereon.

On October 30, 1993, Conductor P. A. Outlaw and Brakeman F. L. Crawford protected Through Freight Train

No. Q-90229, operating from Chattahoochee, FL to Jacksonville, FL. Upon arrival at Jacksonville, Moncrief Yard, the final location in the final terminal of claimants' assignment, claimants complied with instructions in the yarding of their train in the appropriate yard tracks at Moncrief Yard. Claimants were further instructed by the yardmaster to move their engine consist from their train to the shop area. While claimants' engines were en route from their train to the Shop area, the yardmaster on duty instructed claimants to pick-up two (2) engines (CSXT 8121 and CSXT 1157) which were sitting in another yard track and move such engines into the Shop area along with their engine consist. Claimants protested, but performed the duties as instructed by the yardmaster.

It is the position of the organization that, once claimants had yarded their train at the final location within the final terminal and detached their engines, moving same to the Shop, the picking up of engines dead in tow, as done in case-at-bar, is outside the scope of the Schedule and National Agreement Rules and is, therefore, a violation of claimants' Schedule Agreement. Claim for a basic day at yard rates of pay is appropriate in accordance with past practice for violations of the line of demarcation between road and yard work on the former SCL portion of CSX Transportation.

It is the position of the carrier that with the evolution over the years of the rules concerning engines and engine exchanges, arbitrary and penalty payments have been eliminated. It is the carrier's further contention that the sequence of movements made at the final terminal is of no consequence in the determination of a claim's validity.

Article VIII, Section 3(a) of the 1935 UTO National Agreement reads as follows:

a) Road and yard employees in ground service and qualified engine service employees may perform the following items of work in connection with their own assignments without additional compensation ...

(2) Move, turn and spot locomotives and cabooses....

The organization has cited United Transportation Union Conductors & Trainmen vs. Southern Pacific Transportation Company (Western Lines) in support of its position. That case involved the following factual situation, as set forth by Neutral Gil Vernon:

At 4:30 p.m. on April 26, 1939, Conductor T. D. Belgard and Brakeman R. M. Mallory (hereinafter referred to as claimants) were called on duty in Sparks for Run 148 on Extra 8978 running between Sparks and Roseville. At 1:40 a.m. on April 27, the claimants arrived in Roseville at which time they yarded their train, detached their engines and took them to the engine receiving track of the roundhouse. On their way to the roundhouse, the claimants were required to pick up Roseville Locomotive Unit No. 8329 off the main line and bring it in with their engine consist per the request of the roundhouse foreman.

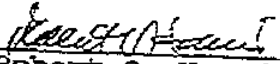
In his decision, Referee Vernon noted:


The critical question in this case is whether the movement of the engine was in connection with their own assignment in the sense that it was incidental. The Board is not convinced that the work in question was incidental or done in connection with Claimants' own assignment. Simply, there was no functional relationship between the dead unit and the Claimants' road assignment.


The facts in this case are identical to those present in the Southern Pacific case. Cases cited by the carrier are not directly on point. Accordingly, this Board will follow the decision in the SP case. There has been no showing by the carrier that the picking up of locomotives CST 8121 and CSXT 1157 were in any way connected to the regular road assignment of claimants.

Award

The claims are sustained. The carrier is directed to implement this award within 30 days from the effective date hereof.


Robert O. Harris
Chairman and Neutral Member


T. D. Roseworthy
For the Carrier


R. D. Snyder
For the Organization

Jacksonville FL. Feb 15, 1993