

PUBLIC LAW BOARD NO. 5345

Award No. 11

BLE File No. 33-89-41  
Carrier File No. 14844

Parties to Dispute: Brotherhood of Locomotive Engineers and Southern Pacific Transportation Lines St. Louis Southwestern Railway Lines

Statement of Claim: Claim of Engineers D. R. Robert and J. R. Gentry for basic day deadhead service account not being properly notified to combine deadhead with prior service prior to coming under the Hours of Service enroute.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing the Board therefor.

Claimant Engineer, D. R. Robert, on January 22, 1989, operated a pool freight train from Ilmo, MO to St. Louis, MO and on his return movement from East St. Louis to Ilmo, outlaid at Menard where he was deadheaded from there to Ilmo. The Claimant Engineer was paid in combined service for his deadhead. His claim for a separate basic day in deadhead service was denied.

On January 28, 1989 the Claimant Engineer J. R. Gentry was operating in ID pool freight service from his away from home terminal at Pine Bluff, Arkansas on January 27, 1989 and outlaid under the hours of service at Randles, MO. He deadheaded via taxi service Randles to Ilmo and filed a claim for basic day separate and part because he was not notified before being relieved from prior service to combine with deadhead service. Gentry did not have a similar message to that given Claimant Robert and attached to his orders.

The instant claim arises under Article VI of the May 19, 1986 Award of Arbitration Board No. 458 reading:

"Section 1 Payment When Deadheading and Service are Combined:

"(a) Deadheading in service may be combined in any manner that track conditions require, and when so combined employees shall be paid actual miles or hours upon a continuous time basis, with no less than a minimum day, for the combined service in deadheading. However, when deadheading from the away-from-home terminal to the home terminal is combined with a service trip from such home terminal to such away-from-home terminal and the distance

between the two terminals exceeds the applicable miles for a basic day, the rate paid for the basic day mileage portion of the service trip in deadhead shall be at the full basic daily rate."

Question and Answer Nos. 3 and 4 thereon, reads:

"Q-3: How is a crew or individual to know whether or not deadheading is combined with service?

A-3: When deadheading for which called is combined with subsequent service, will be notified when called. When deadheading is to be combined with prior service, will be notified before being relieved from prior service. If not so notified, deadheading in service cannot be combined. (Note: Identical Issue No. 10 of the Informal Disputes Committee.) (emphasis added)

Q-4: Can notification to combine deadheading in service be included in the bulletin or assigned road service, e.g., where a crew regularly performs deadheading that the Carrier wishes to combine the service?

A-4: Yes."

The order given to Engineer Robert at East St. Louis, IL, read:

"This will serve as your notice that should the hours of service overtake you prior to completion of trip, you are instructed to combine your service and deadhead unless otherwise instructed by the Train Dispatcher."

Such notice was received before the Claimant went off duty, and the basis for a combine existed. Therefore, Claimant Robert's claim is denied.

However, as to the claim of Engineer Gentry on January 28th, no such message was attached to his orders. The claim of Gentry does not have notification as did that of Engineer Robert. Therefore, Engineer Gentry's claim is sustained. The Board's conclusion is intended to be in accordance with the understanding reached between BLE and the NCC, Informal Disputes Committee, over the 1986 National Agreement involving Issue No. 10. Side Letter #4, Example 11, in part, reads:

"When deadheading is to be combined with prior service, the Engineer should be notified before being relieved from service. If not so notified, deadheading in service cannot be combined."

Award: Dismissal as per findings, i.e., Robert's denied, Gentry's sustained.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.

R. E. Dean

R. E. Dean, Employee Member

Dissent

M. L. Goldstein

M. L. Goldstein, Carrier Member

Arthur T. Van Wart

Arthur T. Van Wart, Chairman  
and Neutral Member

Issued September 24, 1993.