Sustained: Inbound crew making outbound pick-up. No w/o Documentation

PUBLIC LAW BOARD NO. 5441

Award No. 48

Case No. 48

UTU File No. 376-R1810

CSX File No. 4(93-1145)

PARTIES TO DISPUTE:

UNITED TRANSPORTATION UNION

and

CSX TRANSPORTATION, INC.

Statement of Claim

Claim of LCL Condr. H. L. West (192329) for 8 hours' pay for being instructed, before departing initial terminal, that they would take an additional 32 cars and leave them in passing track and then take 108 cars to Louisville which were a part of this crew's train on December 18, 1992. Crew should not have to set these 32 cars off in initial terminal.

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 December 18, 1992, claimants were assigned to take Train S517 from Cincinnati to Louisville. As part of that assignment, but not included within their work order, claimants were directed to set off 32 cars in Latonia passing track (within the Cincinnati Terminal switching limits) prior to their departure from their initial terminal. They departed Queensgate Yard with 140 cars.

This claim was filed by the organization because it believes that the set-off accomplished at Latonia was in violation of the UTU National Agreement since only 108 cars were destined for Louisville. In other words, the organization contends that claimants performed work "not in connection with their own train" when they set off 32 cars at the Latonia Passing Track.

The carrier denied the claim on the basis that the work in question is permissible under the provisions of the 1991 UTU Implementing Documents.

Section 1(a) of Article VII of the UTU National Agreement reads as follows:

> Pursuant to the new road/yard provisions contained in the recommendations of Presidential Emergency Board No. 219, as clarified, a road crew may perform in connection with its own train without additional compensation one move in addition to those permitted by previous agreements at each of the (a) initial terminal, (b) intermediate points, and (c) final terminal. Each of those moves -- those previously allowed plus the new ones -- may be any one of those prescribed by the Presidential Emergency Board:

> pick-ups, set-outs, getting or leaving the train on multiple tracks, interchanging with foreign railroads, transferring cars within a switching limit, and spotting and pulling cars at industries.

The question in this case is the applicability of the above-quoted provision to the factual situation present in this case.

It is clear that PEB 219 recommended that the carriers be allowed greater flexibility in road-yard movements. However, the recommendations contained very specific limitations, one of which was that the movements had to be in connection with the crew's own train.

The question in this case is whether the movement of the 32 cars from Queensgate to Latonia was in connection with the crew's own train. The carrier states that it was; however, the best evidence is the work order which directed the crew to perform the work involved with its own train. That work order authorized the movement of 108 cars, not 140 as the carrier now contends.

There is no question but that if the carrier had properly described the train as containing 140 cars with directions to drop off 32 cars at Latonia, the drop-off would have been within the scope of Section 1(a) of Article VII of the UTU National Agreement. However, for whatever reason, the carrier failed to write a proper work order. It now must pay the penalty.

Award

The claim is sustained.

Robert O. Harris
Chairman and Neutral Member

R. O. Key
For the Carrier

R. D. Snyder
For the Organization

Dissenting

Jacksonville FL, Nov 5, 1996