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Public Law Board No. 6849

Parties to Dispute

United Transportation Union	)	
	)	Case 6/Award 6
	)	
Burlington Northern and Santa Fe Railway Company	)	
	)	

Statement of Claim

Claim code 1-10 account rode car GATX 95815 from MP 1.5 (SF Dayton Yard) up the Dayton Branch line to UP Dayton Yard (Lafayette Sub MP 328.0) approximately 2.5 miles. This move was authorized by train master Warren Powers and was a continuous movement.

Background

Pay claims were filed on March 4,2000 by Claimants P. A. Bird and *M.T.* Little, in accordance with the Statement of Claim. The Claimants were involved in a reverse movement of approximately 2.5 miles between Silsbee and Dayton, Texas. The contention is that they were required to hang on the side of a car for an extended period of time in violation of Article X of the 1982 National Agreement. After the claims' denial they was docketed before this Board for final and binding adjudication.

Since the two claims are identical they have been combined, therefore, into this one case.

As a separate matter, the Board is advised by the Carrier that the two claims are "pilot" claims"…for many other claims being held in abeyance…" There is nothing in the submission by the union nor was there in hearing whereby it raised an objection to this

position on these matters by the Carrier. The Board had not been advised exactly how many other claims are being held in abeyance. Apparently that is information that the parties already have which need not be shared with the Board in the event of a sustaining Award. Nevertheless in the event of the latter the Board will hold jurisdiction over this Award in order arguendo that it might be implemented properly. In the event of a denial Award the number of claims held in abeyance is moot.

Discussion & Findings

While the fact pattern is somewhat different between the claims filed in this case and the claims already dealt with by this Board in Case No.5 the issues at stake are the same. There is an allegation here that Article X of the 1982 Agreement had been violated because the Claimants had to ride a car in a reverse movement for an "…extended distance…" absent a caboose.

A review of the contractual provisions at stake and the arguments by the parties when comparing this case with those features of Case No.5 show that they are parallel. The Board will, therefore, incorporate the discussion and rationale that is found in that earlier Award into the instant one by reference.

In view of these considerations the Board concludes that there was a violation of Article X of the 1982 Agreement by the Carrier when the Claimants were required in a continuous move to hang onto car GATX95815 from MP 1.5 up the Dayton Branch to the Lafayette Sub MP 328.0 which, according to the record, is a distance of about 2.5 miles.

For the sake of consistency the Board can find no grounds for diverging from the rationale it used in arriving at its conclusions in Case No.5 both with respect to merits as well as remedy and it will rule here accordingly. Arbitral precedent cited in that earlier Award applies equally to the instant case.

Award

The two Claimants to this case, Claimants P.A. Bird and M.T. Little shall each be paid the equivalent of two hours pro rata of pay at the rate in effect in at the time the claims were filed. The pay claims filed for February 25,2000 are sustained. Implementation of this Award shall be within thirty (30) days of its date. The Board holds jurisdiction over this Awar until it is implemented.

Edward L. Suntrup, Neutral Member

Gene Shire, Carrier Member

Mike Futhey, Employee Member

Date: Nov. 2, 2007