

Org. File 471-21-8581  
Co. File TRN 3177, GEN 2-75

Decision No. 5709  
Case 1049  
Supplemental List No. 91

SPECIAL ADJUSTMENT BOARD NO. 18  
(Train Service Panel)

PARTIES TO DISPUTE: United Transportation Union-  
Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: Claim on behalf of Conductor B. S. Berry for mileage of assignment with minimum of 100 miles for day lost May 27, 1985.

STATEMENT OF FACTS: The Claimant on the claim date was assigned to Road Switcher assignment 430 at Eugene Yard. As such he was assigned to work Sunday through Friday.

Early in 1985 the Claimant had taken all 11 personal leave days he was entitled to for that calendar year. On Memorial Day, May 27, a recognized holiday, the Claimant's assignment was annulled. He put in a claim for a "guarantee day" pursuant to Rule 21 Section E which was denied and ultimately appealed to the Board.

FINDINGS: The Board finds, after hearing upon the whole record and all evidence that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement and it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

DECISION: The Union relies on Rule 21 Section (E) which states:

"1. Trainmen filling positions in local freight, road switcher, wreck, work, construction and mixed train service (if the mixed train assignment does not exceed 100 miles), who are not used on date scheduled to run, will be allowed the mileage of these respective assignments with a minimum of 100 miles for day lost, regardless of other service performed as trainmen or time lost during the month if they are available for service either on the date preceding or the date following the date of annulment; except, if such trainmen double assignment during month, double will apply in computing guarantee."

It is important to note as background that prior to the crew consist agreement employees in through freight did not receive holidays while employees on road switchers etc. did.

Thus, there is no dispute that prior to the crew consist agreement, pursuant to Article 51, Sections D and E, which state:

"Section D. Weekly or monthly guaranteed will be modified to provide that if a holiday falls on the workday of the assignment, payment of a basic day's pay pursuant to Section A hereof (unless the regularly assigned employe fails to qualify under Section C hereof) will be applied toward such guarantee. Nothing in this Article will create a guarantee where none now exists, or change or modify rules or practices dealing with the Carrier's right to annual assignments on the holidays enumerated in Section A hereof.

"Section E. That part of all rules, agreements, practices or understandings which requires that crew assignments or individual assignments in the classes of service referred to in Section A hereof be worked a stipulated number of days per week or month will not apply to the holiday herein referred to; but if such an assignment is not worked on a holiday, the holiday payment to qualified employes provided by this rule will apply."

an employe would be entitled to a holiday or guarantee day but not both.

Also, relevant here is the fact that the crew consist agreement put employees in through freight service on equal footing with those on road switchers etc. in terms of paid days off. These employees would be entitled to 11 personal days. If they moved back and forth between the two classes of service they only got a combined total of 11 holidays and personal days.

Thus, in view of the fact that the Claimant had already received 11 holidays he is not entitled to compensation for May 27. If he were he would be enriched to a greater degree than a hypothetical employee who was assigned to the road switcher and laid in on all 11 holidays. This employee would receive only 11 paid days off be they called guarantee days or holidays. In this respect, while a misnomer, it is not ultimately relevant that the Carrier paid the two brakemen on this assignment a "guarantee day" for May 27 as opposed to a holiday so long as their total compensation for recognized holidays did not exceed 11 days (and/or personal days).

Accordingly, the Claim is denied.



Gilbert H. Vernon  
Chairman and Neutral Member



D. E. Torrey, Carrier Member



Glynn Gallagher, Employee Member

Dated this 23 day of April 1987  
San Francisco, California