

Org. File F-19033-36-1
Co. File E&F 148-6036

Decision No. 5343
Case No. 2448
Supplemental List No.

SPECIAL BOARD OF ADJUSTMENT NO. 18
(Engine Service Panel)

Parties United Transportation Union (E)
to and
Dispute Southern Pacific Transportation Company

Statement
of Claim: "...100 miles (Holiday pay) and 8 hours at the applicable yard rate of pay, for service performed December 25, and 100 miles at the applicable yard rate of pay, December 26, 1973 in lieu of compensation previously allowed for those dates."

Statement
of Facts: Claimant Engineer, on December 24 and 25, 1973 was regularly assigned to and worked yard job No. 802, 11:59 PM to 7:59 AM for which he was allowed one basic yard day at yard engineer's rate of pay each date.

The Los Angeles Crew Dispatcher on December 26th called Claimant's residence, at 8:05 AM, to advise Claimant that he had been displaced from yard job No. 802, effective December 26th. Claimant's minor son answered the telephone. He advised said Dispatcher that Claimant was asleep. The Crew Dispatcher left a message for Engineer Ellis to call the Crew Dispatcher's office when he awakened. Claimant failed to call.

Claimant reported for duty at 11:59 PM on December 26th for yard job No. 802 at which time he was advised of his displacement. He subsequently made displacement at 8:50 AM, December 27, 1973.

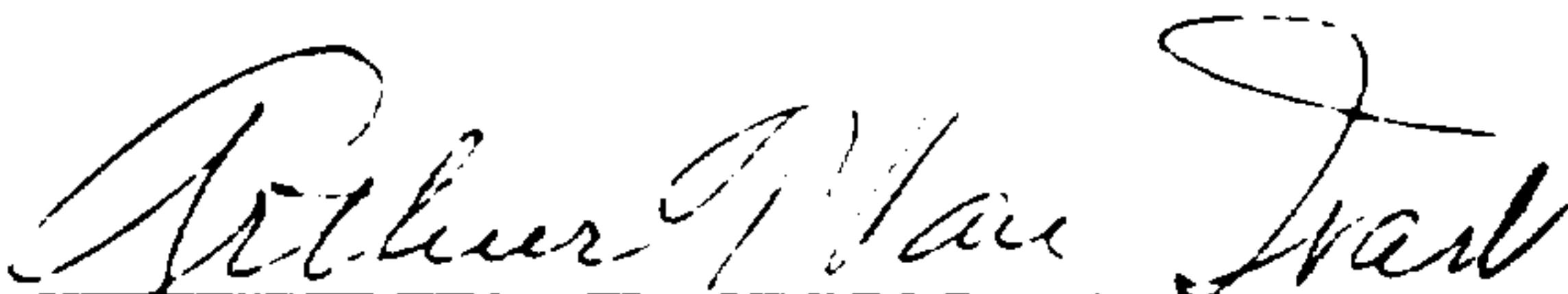
Decision: Here, blame for Claimant's failure to contact the Crew Dispatcher on December 26th is improperly and unfairly placed on Carrier. If Claimant was asleep, as his son so stated, such appears to be an unusual fact as Claimant's residence is known to be some 30 miles from his off duty point, Los Angeles yard, at 7:59 AM. If his minor son was permitted to answer Claimant's telephone and he could recognize that his father was asleep, then such son

could likewise be expected to have told his father that the railroad had called and wanted him to call the Crew Dispatcher.

We conclude Claimant's behavior in the circumstances to have been willful and not faultless. Claimant's conduct cannot be deemed to impute any error or failure on Carrier's part to discharge its obligation to make a reasonable effort to notify Claimant of his displacement. Carrier made such an effort. However, Claimant's failure to contact Carrier thereby made him "not available" on a qualifying day for holiday pay. Thus, Claimant's failure to qualify for holiday pay was of his own doing. Therefore, the claim for 8 hours holiday pay is denied.

As to the other claim for holiday pay for working on the December 25th holiday, such claims of engineers have been previously denied by SBA No. 180 on the basis that until and unless an Engineer qualifies for holiday pay he is ineligible and not entitled to the punitive (overtime) rate of pay for working on a holiday. See Awards 876, 896, 903, and 918 of SBA No. 180 on this property. Therefore the instant claims are also denied.

Award: Claims denied.


Arthur T. Van Wart, Chairman
and Neutral Member


J. R. Leiminger, Employee Member


W. E. Loomis, Carrier Member