

Public Law Board No. 1922

PARTIES
TO
DISPUTE:

United Transportation Union (Switchmen)

and

Southern Pacific Transportation Company

STATEMENT
OF
CLAIM:

Org. File TU 73-14 Co. File YDM 148-16709

Claim is made for a day's pay at the yard rate of payment applicable for the three senior switchmen standing for service at 8:00 A.M. May 30, 1973, Tucson Yard.

FINDINGS:

Car department employes using a fork lift truck moved four cars to a coupling with each other and then shoved them about four car lengths to another location on the same yard track, track No. 14.

In Petitioner's view, a yard crew should have been assigned to move the cars since the cars were not undergoing repairs at the time the move was made. It cites Award 146 of Public Law Board No. 531 which sustained a similar claim that involved a move on the same track for about six

car lengths by carmen to spot cars for repairs.

While it is relatively easy to apply, we are not persuaded that a formula based on whether or not the carmen had actually begun repairs should be rigidly applied to every case involving this issue. Here the cars had been placed on the repair track by switchmen and subsequently were moved by carmen a short distance on the same track only to adjust the distance between cars in order to facilitate repair work. The track on which the move was made was blue flagged and used exclusively for repairs. Later the cars were moved from the track by switchmen.

We will deny the claim in the light of these circumstances. Realistically, the move was directly related to, and an integral part of, the repair function. This conclusion appears to be in line with the views expressed in Award No. 121 of Public Law Board 1 and Decision No. 116 of Special Board of Adjustment 311 as well as First Division Awards 5867 and 9454.

In denying this claim, we have accorded a great deal of weight to Award 146 and the fact that it concerns a move on the track involved in

the present case. We have also given due consideration to the 1954 Sparks Yard settlement mentioned in Award 146. For the reasons stated above, however, it is our conclusion that it is not a violation of the applicable Agreement for carmen to have made the move in dispute in this case.

AWARD: Claim denied.

Adopted at San Francisco, California,
March 28, 1979

Harold M. Weston

Harold M. Weston, Chairman

L. E. Sutton

Carrier Member

Dissent

Employee Member

ORGANIZATION DISSENT

TO

AWARDS 83, 84, 85, 93, 94 and 95

PUBLIC LAW BOARD NO. 1922

UTU - S VS. S. P. PACIFIC LINES

The above listed erroneous Awards denied claims of Southern Pacific switchmen standing for service when car department employees coupled cars on repair tracks and moved them to place them in position so repair could begin. Award 83, denied the lead claim, a claim that arose on repair track 14 in Tucson Yard.

An identical claim arose on the same track, at the same yard, September 10, 1965. That claim was sustained by Award 146 of PLB 531. Award 146, reads in part,-

"No reasonable view has been conceived by the Board or presented by the Carrier under which such a movement under such circumstances could be regarded as anything other than yard switching." (emphasis added)

The work of yard switching belongs to yard crews (switchmen) and PLB 531 sustained the claim. Sustaining Awards, involving similar claims from this property, rendered by Special Boards No. 311 and No. 18, were shown to PLB 1922 as conclusive evidence that the work in question belongs to switchmen. It is well established that to spot cars for repair is work of switchmen.

Prior to the wrong Award, No. 83 of PLB 1922,- if it was found that repair work had not actually begun when the cars were moved,-

the work belonged to switchmen.

The same faulty reasoning used to deny claim in Award 83 was used to deny very similar claims in Cases 84, 85, 93, 94, and 95 by PLB 1922.

This issue was discussed on two different occasions before PLB 1922. It was explained to the Board that by Special Agreement at Eugene, Roseville and Los Angeles, cars placed for repair on certain named tracks, known as a "one spot" repair facility, could be moved by special equipment manned by other than switchmen. No such Agreement is in effect at any other yard, or any other track.

For the reasons outlined, we dissent to the above listed Awards as they can only serve to deny the claim considered in each case and have no precedential value.

Luis Gonzalez

Employee Member
PLB No. 1922