

Public Law Board No. 3159

PARTIES  
TO  
DISPUTE:

United Transportation Union  
and  
Burlington Northern Inc.

STATEMENT  
OF  
CLAIM:

Claim in behalf of Engineer V. F. Sweringen for payment of 100 miles, Holiday pay, September 3, 1979.

FINDINGS:

Claimant, an engineer at Portland, Oregon, was regularly assigned during the period in question to a common extra list protecting both road and yard service.

It is undisputed that he had worked 11 starts in yard service during the 30-day period immediately preceding September 3, 1979, the Labor Day Holiday, and thereby met one of the qualifications for holiday pay prescribed by Section 3, Article I of the June 25, 1964, National Agreement as amended March 10, 1969.

The critical question is whether he satisfied the requirements of paragraph (b) of Section 3. Subparagraph (3) of paragraph (b) provides that an employe, with the required 11 yard starts,

"must be available for yard service on the full calendar days immediately following and the holiday, or perform yard service on any one or more of such days and be so available on the other day or days."

On September 2, the day immediately preceding Labor Day, claimant performed yard service. He was available for such service on September 3, but was not called for service on that day. On September 4, he was called from the extra list for road service.

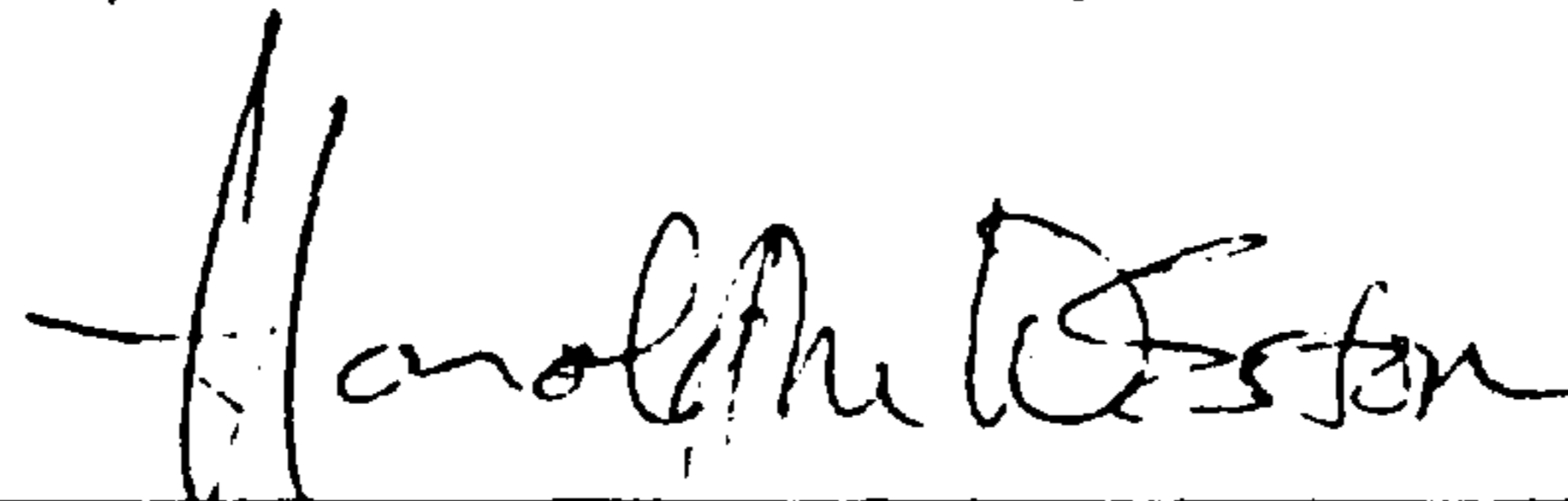
It is Carrier's position that claimant is not entitled to holiday pay under the plain language of the Agreement since he was not available for service on September 4, the day immediately following the holiday.

However, claimant was available for yard service on September 4, but was required by Carrier to perform road service on that day. As National Railway Labor Conference Circular No. 513-11(b) of August 4, 1969 indicates, an extra yard service employe is deemed to be "available" within the meaning of Section 3 and the Note to that Section if he is required by the Carrier to perform other service in accordance with rules and practices on the Carrier.

The claim will be sustained. See Public Law Board 2017 Award No. 2. Cf. denial Award No. 1 of Public Law Board 1548 where the employe was not available on the full calendar day immediately preceding the holiday.

AWARD: Claim sustained. To be effective within 30 days.

Adopted at St. Paul, Minnesota, FEB. 18, 1983.



Harold M. Weston, Chairman



Carrier Member



Employee Member