

PUBLIC LAW BOARD NO. 3290

PARTIES ) UNITED TRANSPORTATION UNION (C&T)  
TO )  
DISPUTE ) THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM:

"Claim of Yard Helper A. Jablonowski for time and half account working July 4th Holiday, 1970" (T30487/1379, Case 23665)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee respectively within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The issue here in dispute concerns a question as to whether an extra yard service employee, who otherwise qualifies for holiday pay, forfeits entitlement to the punitive rate of pay for work performed on a holiday account being called and used in road service instead of yard service on such holiday.

In support of its position that the Claimant is entitled to the punitive rate of pay, the Organization directs attention to the Findings of the National Disputes Committee (Created by Article X of the April 5, 1957 National Agreement), Special Board of Adjustment No. 867 (H. Raymond Cluster, Neutral Member), in Case BRT-94-W, particularly that part of the Findings which reads as follows:

"When the 1964 Agreement changed Section 3(c) of the 1960 Agreement to provide for payment of time and one-half to yard service employees who work on a holiday, the parties did not limit the service for which the premium would be paid to 'yard service', as defined in NOTE 4 for other purposes, but used the phrase 'all services performed', thus further supporting our conclusion that it was within their contemplation that yard service employees would at times be performing road service on holidays under local rules, and that it was intended that the time and one-half provision would be applicable to them under such circumstances."

The Organization also makes reference to several past disputes which had been settled on the property wherein the grievants were allowed the punitive rate of pay under somewhat like circumstances.

It is the Carrier's position that since the Claimant was used from the extra board for road service, he was not in the category of an "extra yard service employee" and therefore did not qualify for punitive time for work performed on the holdday under provisions of the Paid Holidays rule. It states the identical issue found here has already been adjudicated by awards of other Public Law Boards on this property and urges that the doctrine of stare decisis should prevail.

The Board has given careful study to the awards cited by the Carrier. We do not find them to be supportive or dispositive of the issue here in dispute, particularly in the light of the decision adopted by the National Disputes Committee in Case BRT-94-W supra, and past settlements on this property.

It being the opinion of the Board that the record as presented supports the position of the Organization, the claim will be sustained.

AWARD:

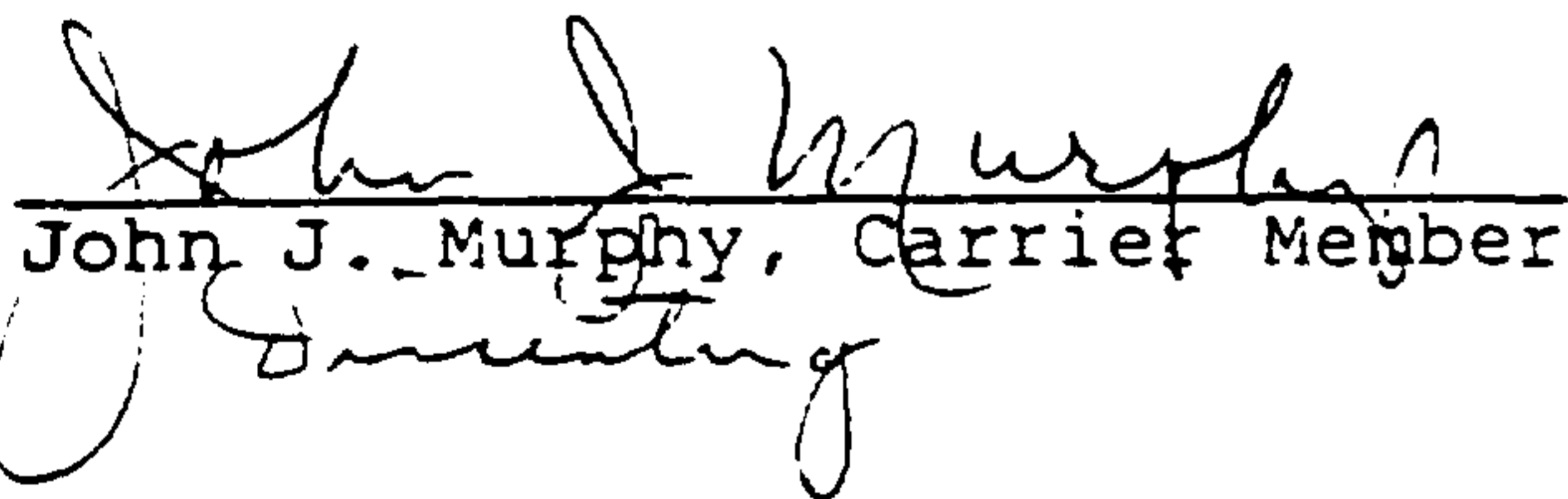
Claim sustained.

ORDER:

The Carrier is directed to make this Award effective within thirty (30) calendar days of the date set forth below.



Robert E. Peterson, Chairman  
and Neutral Member



John J. Murphy, Carrier Member



H. Durward Masters, Organization Member  
- J. F. Kalfas

Baltimore, MD  
February 21, 1984