

PUBLIC LAW BOARD NO. 1977

AWARD NO. 57

CASE NO. 57

UTU FILE: T-PY-456

CARRIER FILE: T-PY-456

PARTIES TO DISPUTE:

Richmond, Fredericksburg and Potomac Railroad Co.

and

United Transportation Union

STATEMENT OF CLAIM

"Claim of Conductor W. G. Kennedy for one days pay at pilot rate for March 10, 1975."

OPINION OF BOARD

On March 10, 1975, a B&O coal train arrived at Potomac Yard and was yarded by the road crew in the Relay Yard. The Organization asserts that a Trainmaster (Greenlee) boarded the train and piloted it into Track No. 6.

Rule 12 states that when Yardmen pilot a train, they receive Conductor's rate of pay, and here the Employees insist that the only reason Greenlee met the coal train was for the sole purpose of piloting it. In this regard, the Organization asks the rhetorical question, if the B&O crews are qualified, why would a Trainmaster board the head end of the unit when it is bound for the Relay Yard. When other trains destined for one of the receiving tracks proceed in that direction, according to the Organization, there are no Assistant Trainmasters on the train.

In support of its claim, the Organization cites Public Law Board No. 308, Award No. 44, concerning an Assistant Trainmaster performing Pilot's work by radio, and the Organization insists that here the violation is more obvious.

In its Submission to this Board, the Carrier denies that the Assistant Trainmaster acted as a Pilot; but rather, it insists that the B&O road crew was fully qualified to yard the train, as directed. In any event, the Carrier argues that there is no rule in the agreement that requires the Carrier to use a Yardman to pilot the train within the yard limits and the Carrier insists that Rule 12 applies only "if and when" a Yard Pilot is needed and used.

This Board does not feel that it is necessary to consider at length the various contentions regarding the concepts of when the Pilot may be needed, because in this case we are inclined to view the actions of the Trainmaster as dispositive as a matter of factual consideration.

These disputes are difficult, indeed, to resolve because they are based upon certain conclusions which must be drawn from the factual circumstances of the case, and the Board is limited to a review of certain documents of record in considering those matters of asserted fact.

There is an indication that in the early stages of use of the yard by B&O crews, Assistant Trainmasters were abundantly in attendance. That would tend to raise a permissible inference that the Trainmasters were performing some work of some productive nature and were not merely riding as observers. We do not feel, limited to this case, that the Organization has rebutted that inference, and pursuant to the authority of Award No. 44 of Public Law Board No. 308, we will sustain this claim.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

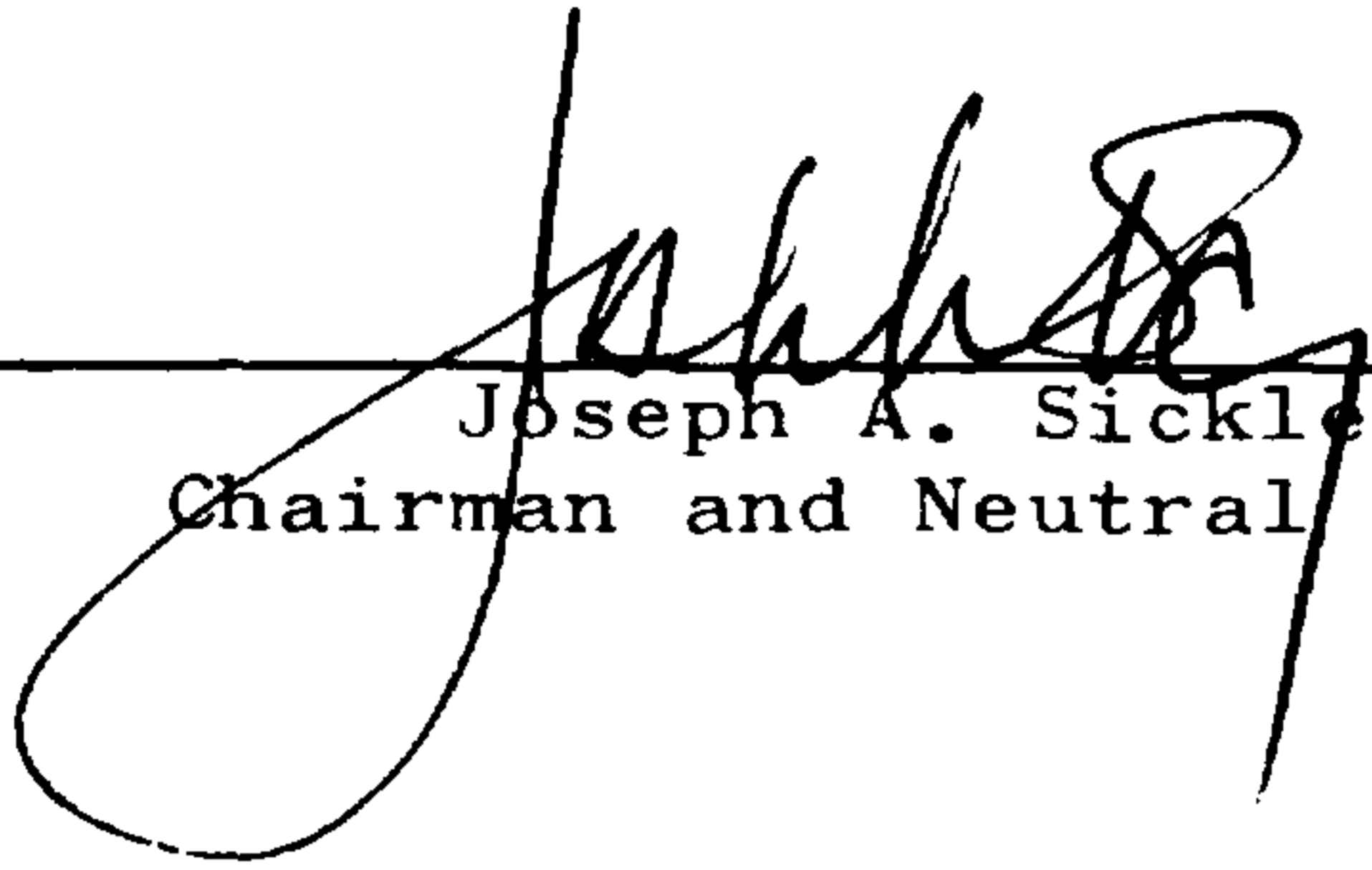
This Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

1. Claim sustained.

2. Carrier shall comply with this Award within thirty (30) days of the effective date hereof.



Joseph A. Sickles
Chairman and Neutral Member



T. B. Choate
Carrier Member



C. E. Wible
Organization Member

July 20, 1982
DATE