

PUBLIC LAW BOARD NO. 1401

PARTIES  
TO  
DISPUTE

UNITED TRANSPORTATION UNION

- and -

BURLINGTON NORTHERN INC.

STATEMENT OF CLAIM:

Claim to cover Fourteenth Seniority District Train Baggage man J. Ilchuk for 329 miles, through freight rate of pay, in lieu of passenger rate allowed account handling G.N. 467 flowers under freight waybill No. 5012, Train No. 28, June 4, 1966.

FINDINGS:

The Board, upon the whole record and all the evidence finds that:

The Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934.

The Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of the hearing.

On June 4, 1966, Claimant was the regularly assigned Train Baggage man working an interdivisional run between Seattle and Spokane, Washington on Passenger Train No. 28. During this tour of duty Passenger Train No. 28 was required to handle car No. G N 467, a baggage car of flowers, from Everett, an intermediate point, to Spokane, Washington. Upon completion of his assignment Claimant submitted a timeslip claiming 329 miles at the through freight rate of pay account required to handle freight shipments while assigned to passenger service. He was allowed 329 miles at the passenger train rate, however.

It is the Organization's position herein that on June 4, 1966, Claimant performed two classes of road service - passenger service and freight service - and therefore should have been paid pursuant to Trainmen's Rule 75(a) as amended by Arbitration Award 168 dated December 3, 1952. Section I A-1 of Arbitration Award 168 provides that road employees may be required to perform two or more classes of service in a day or trip, provided that payment for the entire service shall be made at the highest rate applicable to any class of service performed.

It is the considered opinion of this Board that Trainmen's Rule 62(a), entitled Passenger Freight Shipments, is controlling in the instant dispute rather than Trainmen's Rule 75 (a) as amended by Arbitration Award 168. It is acknowledged that the shipment of flowers on Car No. GN 467 was a freight shipment within the meaning of Rule 62 (a). While it is true that Rule 75 (a) as amended by Arbitration Award 168 states that road employees performing more than one class of road service in a day or trip will be paid for the entire service at the highest rate applicable to any class of service performed, it is manifestly clear to this Board that the specific provisions of Rule 62 (a) must prevail over the more general provisions of Rule 75 (a) and Arbitration Award 168. The latter applies wherever more than one class of road service is performed in a day or trip whereas the former applies only when Carrier handles freight shipments on passenger trains.

Inasmuch as Carrier handled freight shipments on Claimant's passenger train on the claim date, the payment specifically provided by Rule 62 (a) was clearly applicable to him, and not the payment generally required by Rule 75 (a) and Arbitration Award 168. Accordingly, Claimant was entitled to the differential provided on rate sheet shown on page 74 (See Appendix "A") for the actual mileage over which the freight service was performed, viz. Everett to Spokane, Washington. The instant claim shall be sustained to this extent.

AWARD:

Claim disposed of per the Findings.

Carrier is ordered to make the award effective on or before thirty days from the date hereof.

Robert M. O'Brien  
Robert M. O'Brien, Chairman and Neutral Member

K. Levin m.m.w.  
K. Levin, Employee Member

A. E. Egbers  
A. E. Egbers, Carrier Member

Dated this 26<sup>th</sup> day of June, 1979.