

Case 8-NG-355  
(1852-599)  
Case 8-NG-356  
(1852-600)

PUBLIC LAW BOARD NO. 2236

Award No. 2

Case No. 2 and 3

PARTIES TO DISPUTE: UNITED TRANSPORTATION UNION

AND

WESTERN MARYLAND RAILWAY CO.

STATEMENT OF CLAIM:

"Claim of Conductor B. B. Flanagan for wages lost as a result of the difference between the monthly merger guarantee under which now covered and the monthly guarantee sought in computing test period earnings for the period of August 17, 1976, and 12 months prior to that date. The claim herein described is a supplement and subsequent to the October claim, Case No. 1852-T-571 and this claim is for the months of October 1976 and November 1976."

CASE NO. 3

"Claim of Conductor B.B. Flanagan for wages lost under Consolidation of the Baltimore and Ohio RR. and the Western Maryland Rwy. Operations in Cumberland-Connellsville-Somerset-Bowest areas effective November 15, 1976. This claim is a supplement and subsequent to October Claim, Case No. 1852-T-571 and Case 1852-T-599." (UTU Case No. 1852-600)

FINDINGS:

Effective January 5, 1976, and pursuant to an agreement between Baltimore and Ohio - Western Maryland and United Transportation Union, the B & O and WM Operations at Cumberland were consolidated and thereafter employees of the B & O and WM worked in the consolidated Cumberland Terminal Operation as provided in the agreement. The agreement provided that protected employees of B & O or WM who were adversely affected by the consolidation would be entitled to the protective conditions as set forth in the New Orleans Union Passenger Terminal Case.

Effective November 15, 1976, and pursuant to an agreement between the same parties herein, the pool freight operations

were coordinated in the Cumberland-Connellsville-Somerset territory and the employees of B & O and WM worked in the coordinated pool as provided in the agreement. This agreement also provided that protected employees of B & O and WM who were adversely affected by the coordination covered by the agreement would be entitled to the protective conditions of the New Orleans Union Passenger Terminal case.

During August 1976, a conductor's turn was advertised in the Cumberland-Connellsville pool that protected freight service between Cumberland and Connellsville. Claimant, a conductor, was not able to resume duty on his former position on the Grey Turn, made application for conductor on this pool turn. On August 14, 1976, Claimant was assigned to this position. As of the date of the coordination (November 15, 1976) Claimant held a turn in the pool and was a protected employee.

The organization contends that at the time of the yard consolidation, Claimant was the regularly assigned flagman on the Grey Turn, a road assignment, and had held this same position for over a year prior to the consolidation of the Cumberland yard. As a result of the consolidation, the organization contends, there was an abolishment of assignments in the Cumberland yards of both the B & O and WM; and consequently, through a chain of displacements, Claimant was displaced from his assignment on the Grey turn. Claimant was then forced to make displacement on a Pool turn. The Organization contends that Claimant is now entitled to the difference between the Monthly Merger Guarantee under which he was covered and the Monthly Guarantee sought by computing test period earnings for the period of August 17, 1976 and the twelve month period prior to that date.

The second claim is a supplement to the first contending that the Claimant had lost wages and that such loss was directly attributable to the coordination of the B & O - WM Pool Freight Operations in the Cumberland-Connellsville-Somerset areas.


After review of a rather voluminous record the Board finds that there is no merit to either of the claims filed on behalf of the Claimant. It is clear from the record that Claimant was not an adversely affected employee under the January 5, 1976 Cumberland Yard Consolidation and was therefore ineligible for protective benefits under that agreement. Claimant, prior to January 5, 1976, was in Road Service and during the critical period did not work in Yard Service. Claimant was a protected employee under the agreement between the parties effective November 15, 1976 that covered the road coordination. However, the record shows that Claimant has consistently had a level of earnings that exceeded his

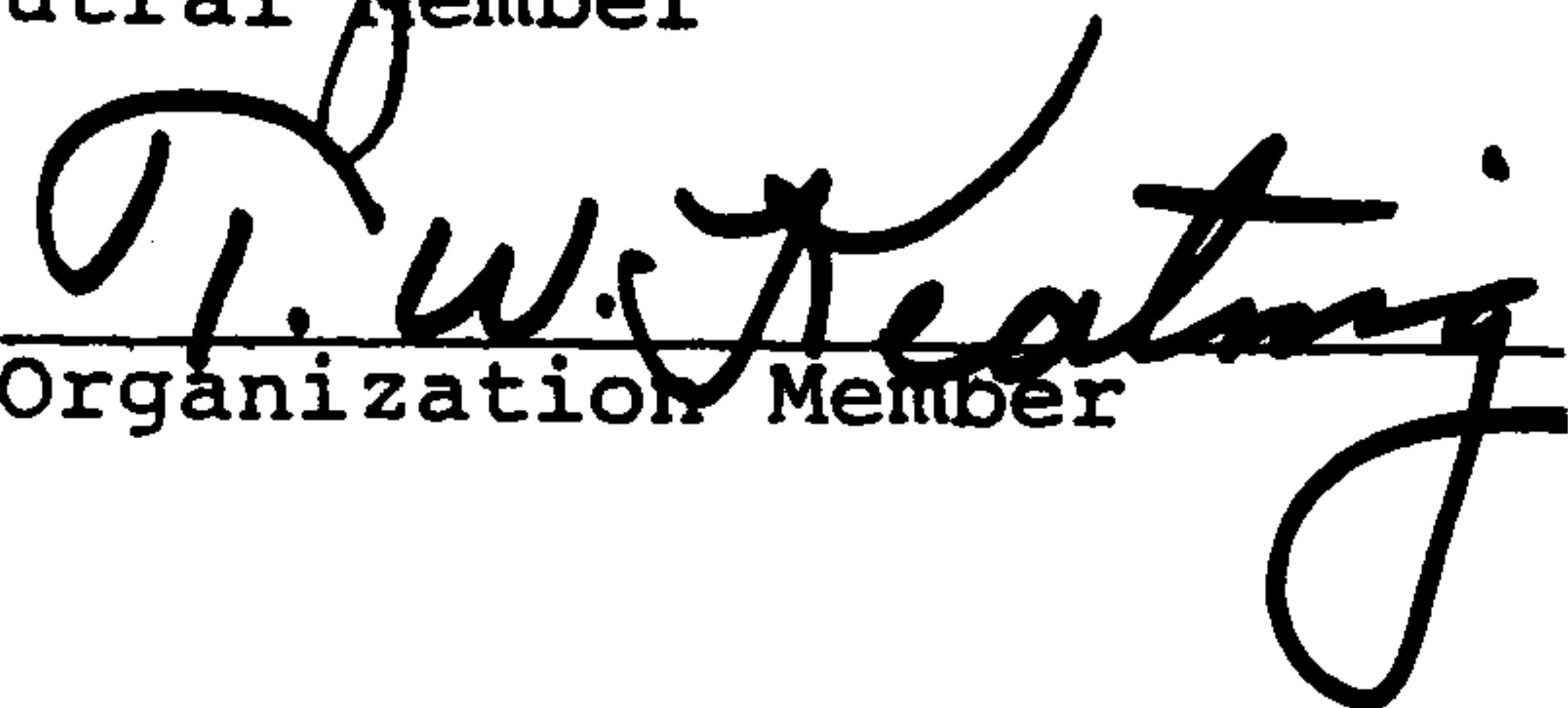
"average monthly compensation." Finally, there is no evidence in this record that Claimant was "bumped" as a result of the coordination.

AWARD

Claims denied.

  
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Neutral Member

  
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Carrier Member

  
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Organization Member

March 27, 1980  
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Date