

PARTIES) UNITED TRANSPORTATION UNION (E)
TO)
DISPUTE) DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

STATEMENT OF CLAIM:

Claim of Engineer G. F. Rood for an additional 100 miles at Hostler rate account moving engine 156 to tie up track while employed on the 12:00 Midnight Proctor switch on June 17, 1981. (Case No. E-18-81)

FINDINGS:

This Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction over the dispute involved herein.

Claimant, while working as an Engineer in yard service, was instructed by Carrier's Yardmaster to use the engine which had been assigned Claimant to move another engine from a roundhouse track to the regular tie-up track. The second engine, according to the Carrier, "evidently had been tied-up on a track which is not normally used for the purpose, and the yardmaster instructed Engineer Rood to place the unit on the regular tie-up track."

It is the Organization's position that the engine handled by Claimant from the roundhouse track "was not out of service, it was assigned to go to work on the morning switch assignment for June 17, 1981 [and Claimant] had to hook-up the main air hose and had to release the hand brake [and] the independent switch...cut out in order that he could control the brake pressure." The Organization maintains that such work properly belongs to Hostlers and not to Engineers, such as Claimant, who are assigned to general yard service. In this connection, it states Hostlers are employed at this location on a three-shift basis,

seven days a week, and that "Hostlers bring all engines from the diesel house and locate them on proper tracks (as assigned by diesel house foreman) for all road or yard assignments."

Although the Organization presents varied arguments in support of its contentions, it directs particular attention to the following "Note" to Rule 52(c) of the current working agreement:

"Note: The provisions of this rule do not interfere with the right of yard crews to switch cars to or from the roundhouse, roundhouse circle or diesel house if so instructed."

As concerns the above citation, the Organization argues that nowhere does it state that the Carrier can have yard crews move or switch "engines", that the Note makes reference only to the switching of "cars".

The Organization also submits that by agreement with the Carrier, "switch jobs would pick up engines in Proctor yard and receive a[n] engine exchange of one hour per change for each and every exchange." In this regard, it is noted that the claim in the instant dispute as initially filed on the property was for two "engine changes", but that in appealing and handling the claim on the property the General Chairman listed it as set forth in the above Statement of Claim, it being contended "that two engine changes are applicable or 100 miles at hostler rates."

The Carrier does not deny that a Hostler could have shifted the locomotive. It also states that when it comes to any question as to who can perform work as between Engineers and Hostlers, that Rule 52 "is the sole written rule." However, as concerns Rule 52, the Carrier states that this Rule merely outlines work which Hostlers may perform, that the Rule "says nothing about any work which an engineer cannot be required to do." In this same connection, the Carrier argues

that nothing to be found in the rules agreement restricts work which an Engineer can be required to perform, and that these rules, including Rule 52(c), do not support the Organization's contention that Hostlers have the exclusive right to handle locomotives between the tracks involved in this dispute.

As concerns the claim as initially filed, the Carrier states that "Rule 71 covers engine exchanges, and has always been interpreted to encompass the act of getting off one engine and on another, to perform work, or changing the consist of motive power." It asserts that in the instant case, "the Claimant merely coupled to Unit 156, moved it, and then uncoupled;" that Claimant never "changed" engines and is therefore not entitled to an engine exchange allowance.

Basically, it is the Carrier's position that no hostling service was performed; Claimant only moved an out-of-service engine from one track to another, and that Engineers can and have worked in Dieselhouse territory in the past without penalty payments.

Rule 52, in its entirety, reads as follows:

"RULE 52 - Hostler Service

- (a) Hostlers will be permitted to handle light engines anywhere within the yard limits at Proctor.
- (b) Hostlers shall not be required to do switching except as relates to the locomotive department.
- (c) Tracks 190 and 195, located at the Proctor locomotive facility are designated as exchange tracks for the locomotive facility from which points hostlers may handle cars to and from the roundhouse, roundhouse circle and the diesel house.

Hostlers may handle cars, one at a time from the exchange tracks to the roundhouse, roundhouse circle or diesel house or vice versa, but will not be permitted to handle cars consigned to contractors.

Note: The provisions of this rule do not interfere with the right of yard crews to switch cars to or from the roundhouse, roundhouse circle or diesel house if so instructed.

"(d) Work such as the inspection of drivers for flat spots may be assigned to hostlers."

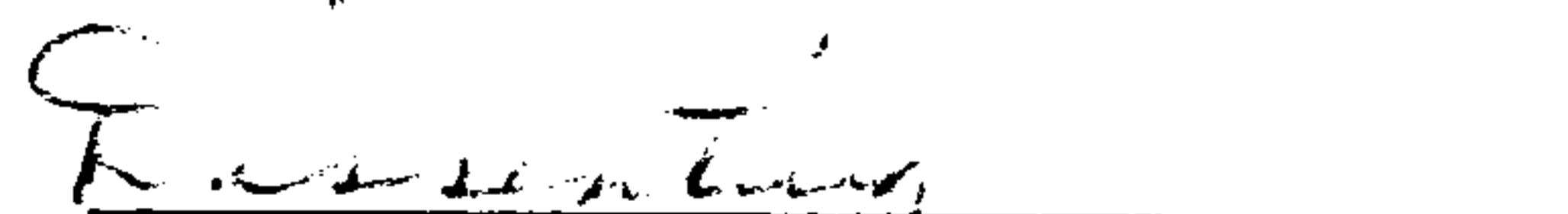
In applying the facts as presented to the rules and arguments cited, the Board does not find that it may conclude that the work required of Claimant is that which is exclusively vested in or confined to Hostlers. As the Carrier has stated in its position to the Board, Rule 52 merely sets forth work which may be performed by Hostlers, and this Board cannot assume the power to place a limitation on the right of the Carrier to use other than the Hostler to perform work of the nature covered by the dispute here before the Board. The fact that Carrier would usually require engines be left at a certain location, which was not done here, cannot be found to have barred Carrier from having a yard engine crew instead of a Hostler to switch such engine to the regular tie-up track. Essentially, the work performed by Claimant was not unlike that recognized as general yard switching and where it is not uncommon for yard crews to have to provide for the release of brakes coincident to the movement of cars or engines off a track. Under the circumstances, this Board has no alternative but to hold that the Carrier could properly require Claimant to perform the work in dispute without incurring a penalty claim either as hostler work or an engine exchange.

AWARD:

Claim denied.



Robert E. Peterson, Chairman
and Neutral Member


K. C. Sutton, Carrier Member
C. Bryant, Employee Member

Duluth, MN
January , 1984