

PUBLIC LAW BOARD NO. 2418

CASE NO. 8

AWARD NO. 8

NW FILE: F&E-ROW-76-4

UTU-E: Sh-2198

PARTIES TO DISPUTE:

Norfolk and Western Railway Company

and

United Transportation Union - E

STATEMENT OF CLAIM

"Claim for 100 miles Winston-Salem, North Carolina to Stoneville, North Carolina plus 125 miles, 30 minutes pro rata Winston-Salem to Roanoke, Virginia at the appropriate rate in lieu of payment already allowed in favor of Shenandoah Division Engineer G. H. Slusher and Fireman H. M. Wade, account of service performed March 12, 1976."

OPINION OF BOARD

The Claimants went on duty at Winston-Salem, North Carolina - an away-from-home terminal - in work train service. The preceding day, they worked into Winston-Salem in pool freight service.

On the claim date, the Employees worked train service to Stoneville, North Carolina (39.8 miles north of Winston-Salem) and after unloading ballast, they returned to Fulp (25.2 miles north of Winston-Salem) and were put in through freight service at that point to Roanoke, Virginia.

The Organization asserts that because Article 4(g) establishes a guarantee for work train service, but not for through freight service, the article would tend to separate the two types of service. The Organization also relies upon Article 5 of the applicable agreement, as well as Article 10. In addition, the Employees rely upon that portion of Award No. 3 of Public Law Board No. 1256

in which the Carrier's position is cited to the point that it contended "...that work trains are not assigned in through freight service..."

Award No. 128 of Public Law Board No. 132 resolved a dispute between these parties, in which certain employees were in work train service, and then were instructed to perform switching in through freight service. In response to Carrier's position that the employees simply performed more than one class of road service and were properly compensated for it, the Board determined that the schedule does not require that the employees remain in the class of service they began their tour in, or that they revert to it at the end of the tour, but when they switch from one class of service to the other, they came under the rules applicable to the various services and the claim was sustained.

The Carrier argues that the Claimants were properly compensated under the applicable rules of the pertinent agreements, and suggests that there is no provision for paying an extra day even when more than one class of road service is performed in a day or trip, as claimed. Further, the Carrier relies upon Article 10 of the Engineers' Agreement and the decision of Arbitration Board No. 168 in Case ORCNB, 30-W. See, also, Award No. 3 of Public Law Board No. 766 and First Division Award No. 12673.

The authority in this type of dispute is not particularly unanimous in its approach. However, Award No. 128 of Public Law Board No. 1302 was issued subsequent to Denial Award No. 3 of Public Law Board No. 766. We are inclined to find that the later award deals with this type of dispute and is authority for a sustaining award.

#### 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.

  
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Joseph A. Sickles  
Chairman and Neutral Member

  
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J. R. Burge  
Organization Member

  
\_\_\_\_\_  
J. B. Smith  
Carrier Member

9/4/80  
DATE