

PARTIES) UNITED TRANSPORTATION UNION
 TO) vs.
 DISPUTE) THE COLORADO AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Conductor B. Reorda, Brakemen R. Cole and R. Bonato for 100 miles, at applicable rates, in addition to any other earnings, based on service performed between M.P. 222 and Beshoar, Time Slip No. 9b dated August 9, 1980.

OPINION OF THE BOARD

On Claim date, Claimants were working in pool freight service and were called for Extra 5557 East Trinidad to Texline. This crew went on duty at 12:01 a.m. and departed Trinidad at 3:00 a.m. with train orders to meet Extras SP 8758, ATSF 5201 and 5304 West at Beshoar. Upon arriving at Beshoar they met SP 8758 and ATSF 5201; however Extra 5304 West had been overtaken by the Hours of Service Law at Mile Post 222, slightly more than 1 mile distant, and which was occupying and blocking the Main Line. Claimants were required to proceed to Mile Post 222 and bring Extra 5304 West into Beshoar. Claimant crew then proceeded with their train until they were overtaken by the Hours of Service Law at Des Moines where they were relieved and transported into Texline. Claim was denied up to and including Carrier's highest designated officer. Petitioners originally appealed this penalty demand based upon an alleged violation of Section 2, Article XI-Combination Road-Yard Service Zones of the August 25, 1978 UTU National Agreement. After the declination of the claim, the Organization altered its position and now contends that Claimants were required to make a "lapback" where no emergency existed and that they are due a penalty day as a consequence thereof under Rule 6 (B), which is in part:

"Crews required to make lap-back trips, except in emergencies, will be paid 100 miles in addition to the mileage or trip.****"

(emphasis ours)

The record discloses that the main line was blocked by a train which had been overtaken by the Hours of Service Law. Claimants were the nearest employees who could take immediate action in clearing the main line. First Division Award 14229 stated that when a main line is blocked so as to prevent and uninterrupted movement of trains, an emergency exists. Therefore, an emergency did exist.

This Board finds that because of the procedural defect and also because of the emergency situation that existed in this dispute, the proper payment under the circumstance are set forth in Rule 6 (B), and this claim will be denied.

AWARD: Claim denied.

Signed at Ft. Worth, Texas, this 6th day of April, 1982.



GENE T. RITTER, Chairman



G. T. DUBOSE,
Organization Member



B. J. MASON,
Carrier Member