

PUBLIC LAW BOARD NO. 1872

Award No. 7
Case No. 7

Parties to Dispute:

HNG 2032

CHESAPEAKE & OHIO RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

Statement of Claim:

Claim of Conductor F. E. Southall, Brakemen H. J. Evans and J. L. Kiener for one day at yard rate in addition to other time allowed January 27, 1976, account terminal switching at Columbus, Ohio.

Findings:

On the date of the claim, Claimants were members of a road train crew having been called for duty at Parsons (Columbus, Ohio) for Train Extra 4173 West for service to Walbridge (Toledo, Ohio). On that day another train (Extra 4084 West) experienced difficulty at King Avenue, a point within the Columbus Yard switching limits, and the Claimant crew cut away its engines and assisted (pushed) Extra 4084 West from King Avenue to Milepost 14, a point in road territory outside switching limits. Claimants then cut away, returned to their train and resumed their trip to Toledo. Both trains were proceeding in the same direction.

For services rendered Claimants were paid based on mileage actually operated at the applicable through freight rate of pay in effect. Subsequently Claimants submitted a time claim for

"...one yard day for assisting Extra 4084 West from King Avenue to MP 14..."

The Organization contends that the claims are valid because the service required was within switching limits and was work that was contractually work of yard crews, and when such service was required it constituted terminal switching. In support of its position, the Organization relies on Award No. 3 of Public Law Board No. 1324 on this property, as well as similar claims paid pursuant to such Award.

Carrier contends that Claimants were in through freight service and when they were used in helper service during the course of their trip from Parsons to Walbridge on the claim date, they were paid on a continuous time basis at the highest rate applicable to any class of service performed pursuant to Article 7 (3) of the Agreements in effect. Article 7, Section 3 reads:

"Road conductors 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. The overtime basis for the rate paid will apply for the entire trip. "

Carrier further refers to the Interpretation of Article 7, Section 1 reading:

"In applying Section 1 of Article 7 it is the practice in through freight service on the Hocking Division not to add mileage for doubling, running for water, setting out cripples, pushing another train in the same direction, or any of the various moves which are made in handling a train to its destination, but payment made on the basis of specified or agreed to miles."

Award No. 3 of Public Law Board No. 1324, on this property, involved a Claimant road crew that was instructed to assist another train by pushing it to the block at Big 4 Tower. All the work performed was entirely within the switching limits at Columbus, Ohio. The arguments made by Carrier in that dispute are essentially the same as those made herein. In sustaining the claim, the Board in that Award stated:

"It is the opinion of the Board after careful consideration that all of the allegations of the Carrier refer to road service. If the movement herein had taken place outside of the switching limits, we would agree entirely with the Carrier. However, it appears to the Board that the Claimant's were required to perform yard service, and on that basis the claim is valid."

It is noted that the move in Award No. 3 above was entirely within the switching limits at Columbus, Ohio; the move made by the road crew here was from King Avenue, a point in Columbus Yard switching limits to Milepost 14, a point in road territory outside switching limits. In this connection, the Organization refers to a claim that was paid, based on Award No. 3, that involved a move from within switching limits to a point outside switching limits.

Even though the Organization contends that the road crew performed yard work i.e. terminal switching, no claim was filed on behalf of any yard crew on duty at the time. Moreover, there is no suggestion by the Organization that a yard crew could have been required to go outside yard limits to push the road train in road territory.

The Board is of the opinion that where a road crew performs


pusher service in both yard territory and road territory, and are paid the higher through freight rate, there is no justification for the additional one day for terminal switching. To hold otherwise would reach the absurd result of requiring the yard crew to handle the train up to the switching limits and then requiring the road crew to pick up the train for movement in road territory in order to avoid a penalty payment either by the road crew or the yard crew. Article 7 cannot be construed to reach such a burdensome and illogical result.

AWARD

Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: March 15, 1982