

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No.13787
Docket No. 13661
04-2-02-2-23

The Second Division consisted of the regular members and in addition Referee Don A. Hampton when award was rendered.

PARTIES TO DISPUTE: (**(Brotherhood Railway Carmen Division
(Transportation Communications International Union
(Delaware and Hudson Railway Company, Inc.**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. The Delaware and Hudson Railway Company (Division of CP Rail System) violated the terms of our current agreement, in particular Letter of Understanding No. 1, when they arbitrarily denied payment of an additional 2% General Wage Increase to Carmen employees, as a result of Public Law Board 577 - Award 1.**
- 2. That accordingly, the Delaware and Hudson Railway Company be ordered to compensate the Carmen employed, a 2% Wage Increase that they are entitled, effective January 1, 2000 as required by our agreement.”**

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

On January 29, 1998 the parties entered into an Agreement resolving the Organization's Section 6 notice dated July 25, 1995. A portion of that Agreement was Letter of Understanding No. 4 (a so called me-too clause). The pertinent part of Letter of Understanding No. 4 reads:

"During the course of the current round of negotiations, should general wage increases, lump sum payments and signing bonuses, and other compensation improvements be negotiated by the Carrier (or imposed on it by arbitration or legislation) with other unions greater than those provided in the D&H/BRC (Carmen) agreement, the greater amounts would also apply to the employees represented by your union. Other compensation improvements refers to increases in paid holidays, personal leave days or vacation entitlements."

The parties subsequently, on May 11, 1999 agreed to Letter of Understanding No. 1 which reads:

"This is connection with the final settlement of Letter of Understanding #4 of the Memorandum of Agreement between the parties dated January 29, 1998.

In the event the D&H executes an agreement for the commencing January 1, 2000 and ending December 31, 2001 with any other unions representing its employees that contain improvements in the areas of compensation and benefits that are greater than those set forth in this Memorandum of Agreement, it is agreed that such improvements will be incorporated into the D&H/BRC (Carmen) Agreement with the D&H, unless such improvement(s) was made in consideration for modification(s) in the Company's Agreement with the other Union which benefits the D&H."

On November 6, 2001 Public Law Board No. 577 in Award 1 found that based on paragraph (f), of Article 1 of an August 3, 1998 Memorandum of Agreement between the Carrier and its employees represented by the UTU that those employees would be granted a general wage increase of 2% retroactive to January 1, 2000. It is this increase that the organization asserts it is entitled to under the terms of the BRC "me-too agreement."

We have reviewed the entire record before the board regarding this matter and have noted a similar dispute between the Carrier and its employees represented by the United Transportation Union Yardmaster Department. It is also noted that on September 16, 2003, that dispute was resolved by Public Law Board No. 6630, Award 1. The Award held that that under a "me-too clause" the Yardmasters also should be awarded a 2% wage increase based on the aforementioned Award 1, of Public Law Board No. 577.

The Board cannot find reason to differ with the opinion of Public Law Board No. 6630. We will therefore sustain the claim.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 11th day of March 2004.