

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32528
Docket No. CL-32899
98-3-96-3-254**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (*Transportation Communications International Union*
(St. Lawrence & Atlantic Railroad Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11214) that:

- (1) Carrier violated the Working Agreement, specifically Article IV - Equity Considerations of the May 14, 1993 agreement, when it denied the Organizations request to amend the Agreement, through application of Article IV, to provide for compensation and benefits in accordance with the terms of the agreement between Carrier and the United Transportation Union dated June 11, 1994.
- (2) Carrier shall now be required to increase the rates in Classification A \$1.00 per hour retroactive to June 11, 1994.”

FINDINGS:

The Third 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 May 14, 1993, the Organization and Carrier amended their Agreement. Contained in the amended Agreement was a "me too" or Equity Consideration clause. That provision reads in pertinent part as follows:

"In the event that an agreement is reached with another Union which contains provisions for bonus payments, wage increases, lump sum payments, Cost-of-Living Adjustments or other benefits in excess of those provided by this agreement, the St. Lawrence & Atlantic will, upon request from the General Chairman signatory to this Agreement, apply such wage, rule and/or benefit provisions to the employees covered by this agreement provided, however, that any offsetting considerations (or equivalent offsetting considerations if appropriate) agreed to by such other Union in return for wage and/or agreed to by other Union in return for wage and/or benefit provisions, will likewise be applied to the employees covered by this agreement."

On June 11, 1994, the Carrier entered into a new Agreement with the United Transportation Union (UTU) covering Carrier's train and engine employees. That Agreement contained the following provisions:

"ARTICLE 16 - CREW REQUIREMENTS

A. Except as provided herein or in any side letter hereto, the crew of all assignments (regular or extra) shall consist of not less than one (1) Engineer, one (1) Conductor, and one (1) Brakeman.

B. The crew of all through freight assignments (regular, area or pool) between Island Pond, Vermont and Danville Junction, Maine may consist of one (1) engineer and one (1) conductor, provided no switching is performed in route (unless a utility brakeman works with the assignment as provided in Section C below). Engineer and Conductor shall receive the short-crew allowance described in Exhibit B, Paragraph B herein.

EXHIBIT B - COMPENSATION

* * *

B. Employees subject to this Agreement on assignments with only one engineer and one conductor (and no brakeman) shall each receive \$2.00 per hour in addition to the hourly rates stated in paragraph A above."

Under letter of August 1, 1994, the Organization requested that the Carrier apply the \$1.00 per hour wage differential set forth in "Compensation – Paragraph B" (above) to the TCU Agreement, to match the increase granted the UTU. By letter of August 30, 1994, the Carrier responded as follows:

"Please refer to your letter of August 1, 1994, wherein you asked the carrier to apply the same wage increase contained in the June 11, 1994, agreement between the UTU and the SLR.

The wage increase that you referenced is in fact the same for all SLR employees falling under pay classification 'A' regardless of their union affiliation. Under the current UTU contract, it was agreed that the UTU would relinquish all rights to the third crew members position. The eight dollar per day disparity is payment for this position.

As to your request for additional benefits, more specifically side letter #2 of the UTU agreement, the carrier would be willing to extend the benefits in this letter of all of its contractual employees.

The carrier on the other hand would ask that you also accept the conditions set forth in A, Article 20-F, Paragraph #2. 'A, Article 20-F, Paragraph 2,' refers to UTU employees' qualification for sick days, and would represent a decrease in the similar provision in the TCU agreement. On November 11, 1994, the Organization appealed the claim, and it was subsequently progressed in the usual manner."

The language of Article IV of the TCU Agreement is clear. Wage Equity between TCU employees and employees covered by subsequently settled Agreements will be maintained. Such equity, however, is not judged solely on wage increases. Rather, as noted in Article IV, any wage increases will be considered in light of other "offsetting considerations" conceded by the non-TCU Organizations.

In this case, the Carrier offered to meet the Organization wage equity demands in exchange for "an equivalent offsetting consideration" to match the UTU's relinquishing a third crew member position. The TCU declined to do so. The Organization has failed to refute the Carrier's position that the UTU \$8.00 per day wage increase was, in fact, "bought" by giving up the third position. Accordingly, we find that, under Article IV of the TCU Agreement, Carrier is not obliged to grant the \$1.00 per hour increase sought by the Organization.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

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

Dated at Chicago, Illinois, this 25th day of March 1998.