

Arbitration Pursuant to Appendix III, Section 11  
(Finance Docket No. 28250)  
Involving the  
"New York Dock Protective Conditions"  
Imposed by the  
Interstate Commerce Commission  
on the  
Burlington Northern Railroad Company

Award No. 3

Parties to Dispute: Burlington Northern Railroad Company  
and

Brotherhood Railway Carmen of the United  
States and Canada

Statement of Claim:

- "1. That the Fort Worth and Denver Railroad Company violated the terms of our Agreement, in particular the provisions of ICC Finance Docket No. 28250 (commonly known as New York Dock Conditions), Sections 4, 5, 6, 7, 8, 9, and 10 thereof, when they furloughed Childress, Texas Carmen L. D. Kelso, W. L. McBride, M. E. Clouse, and J. N. Ray, and Upgraded Carmen R. C. Santillan, C. L. Weir, E. E. Griffin, and R. H. Smith, and failed to furnish them the benefits as provided for under New York Dock.
- "2. That, accordingly above named Claimants be allowed the applicable benefits to commence the date they furloughed and to continue through their protected period."

Committee Members: Chairman and Neutral Member: Gil Vernon

Labor Member: R. P. Wojtowicz, Vice President  
Brotherhood Railway Carmen of  
the United States and Canada

Carrier Member: J. N. Locklin, Manager -  
Labor Relations

## BACKGROUND

This claim involves, as did Award No. 2, the Carrier's merger with the Fort Worth and Denver (FWD) in December 1982, and events at Childress, Texas. In Award No. 2, the Claimant was furloughed after the merger, and shortly prior to the discontinuance of carmen activity at Childress.

In this case all Claimants, except one -- J. N. Ray -- were furloughed in 1982. In July, 1982, Claimants Santillan, Weir, Griffin and Smith were furloughed. In October, Claimants Kelso, McBride and Clouse were furloughed. Claimant Ray was technically furloughed in April 1983, however, at the time, he was on sick leave and the record indicates that, as of the date of the hearing, he still was on sick leave.

## FINDINGS

In this case, the Organization argues that all of the Claimants, except J. N. Ray, were laid off in anticipation of the merger. However, the committee is not satisfied that there has been any causal nexus established between the merger, as it was, and the earlier layoffs of the Claimants. All the specific events pointed to by the Organization are events which could have, under these facts and circumstances, occurred in the absence of the merger. Therefore, the claim for these Claimants must be denied.

With respect to Claimant Ray, there is no indication that as of the date of the hearing, he has yet been deprived of employment

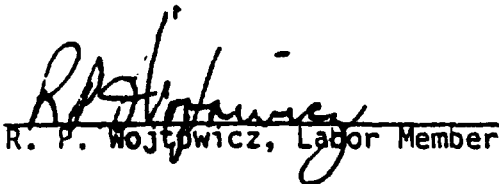
-- as he still remains unavailable for work. Therefore, realistically speaking, no legitimate question or issue is present in this case. Accordingly, his claim will be dismissed.

AWARD

The Claims are disposed of in accordance with the Findings.



Gil Vernon, Chairman and Neutral Member



R. P. Wojtowicz, Labor Member



J. N. Locklin, Carrier Member

Dated, this 3rd day of January, 1986.