

ARBITRATION COMMITTEE
ESTABLISHED UNDER NEW YORK DOCK PROTECTIVE CONDITIONS

In the Matter of an Arbitration Between)

UNITED TRANSPORTATION UNION (C&T))

and)

UNION PACIFIC RAILROAD COMPANY)
(Former Missouri Pacific - Upper Lines))

FINDINGS & AWARD

QUESTION AT ISSUE:

"Are the protective conditions of New York Dock applicable to Trainmen S. B. Adams, G. F. Miller, G. L. Rankin, P. M. Brannon, and other employees under similar circumstances, as result of abolishment of the Salina TSE on June 1, 1985?"

BACKGROUND:

In pursuance of authority granted by the Interstate Commerce Commission in its Decision in Finance Docket No. 30,000, issued October 20, 1982, and further described by this Board in its Award No. 1, the Carrier provided for a consolidation and coordination of operations at Salina, Kansas.

In this connection, the Carrier entered into an agreement with the Organization which provided in part here pertinent as follows:

"Effective on or after May 1, 1985, all work now being performed by MP in and around Salina will be consolidated into a single combined operation with all work performed by UP employees under the applicable UP schedule rules."

Prior to this time, there was one MP assignment working in and around Salina, namely, Job No. L622, which was a road switcher or traveling switch engine assignment.

On June 1, 1985, or one month following the effective date of the above mentioned agreement, the Carrier abolished this Salina as-

signment (Job No. L622) and the three incumbents of the Job were thereafter certified for protection under the terms of the agreement. In addition, five other employees were certified for protection as a result of one of the former incumbents of Job No. L622 exercising displacement rights to a freight pool turn on June 6, 1985 and thereby causing a chain of displacements.

On June 1, 1985 when Job No. L622 was abolished, Claimants Adams and Rankin were holding a pool turn and were not affected by the then chain of displacements. Ten days later, on June 11, 1985, a turn was taken out of the pool and a series of displacements at this time caused Claimants Adams and Rankin to be displaced from a pool turn to the extra list.

Claimants Adams and Rankin allege that the displacement was due to abolishment of the Salina assignment and that they are thereby entitled to protection under the New York Dock Conditions.

The Carrier maintains that Claimants Adams and Rankin were not displaced by reason of the abolishment of the Salina assignment but instead as a result of the mileage adjustment of the pool in application of the rules in a normal manner.

Claimant Miller was likewise regularly assigned to a pool turn as of June 1, 1985. He had remained in pool service until displaced on July 11, 1985 by Brakeman W. H. White when the latter returned to service after being off account sick leave in connection with an injury he had sustained on January 23, 1985.

Claimant Brannon was regularly assigned to the Brakeman's Extra Board at Council Grove, Kansas on June 1, 1985, or the date the Salina assignment was abolished. Claimant Brannon remained on the extra board through December 20, 1985, the date on which he filed claims for protective benefits for the months of June through November, 1985, maintaining that he was adversely affected by the abolishment of the Salina assignment because one of the former incumbents of the Salina job had placed himself on a job that Claimant Brannon alleges he could have placed himself on.

FINDINGS AND OPINION OF THE BOARD:

This Board is not persuaded from its review of the record and the work histories of the Claimants as developed and presented that they were adversely affected by the abolishment of Job No. L622 at Salina, Kansas, either in a direct manner or by reason of being involved in the chain of displacements flowing from such abolishment.

It is evident that the Claimants were displaced by reason of the mileage regulation of the extra list as provided for in the rules agreement whereby work opportunities and compensation rises and falls with the ebb and flow of business conditions, or because a senior employee who had been off on sick leave had returned to

service. These are not matters directly attributable to the abolishment of Job No. L622 or, therefore, a "transaction" for which it is intended employees will be considered as entitled to protective benefits.

Accordingly, absent an established causal nexus, it must be held that there was no transaction which activated the protective conditions of the New York Dock Conditions with respect to the instant claims.

AWARD:

The Question at Issue is answered in the negative. The New York Dock labor protective conditions are not found to be applicable to Claimants as a result of the abolishment of the Salina TSE (traveling switch engine) on June 1, 1985.



Robert E. Peterson, Arbitrator

Kansas City, MO
October 20, 1987