

ARBITRATION COMMITTEE
ESTABLISHED UNDER NEW YORK DOCK PROTECTIVE CONDITIONS

In the Matter of an Arbitration Between)
UNITED TRANSPORTATION UNION (C&T))
and) FINDINGS & AWARD
UNION PACIFIC RAILROAD COMPANY)
(Former Missouri Pacific - Upper Lines))
_____)

QUESTION AT ISSUE:

"Are the protective conditions of New York Dock conditions applicable to Fireman D. Dix 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 Nos. 1 and 2, the Carrier provided for a consolidation and coordination of operations at Salina, Kansas.

As a result of the abolishment of Salina Job No. L622 on June 1, 1985, the Carrier certified Fireman T. R. Mickens, who had been assigned to such job, as being entitled to protective benefits under the New York Dock Conditions. Fireman Mickens was said to have exercised his seniority to an open hostling job at Wichita, Kansas following the abolishment of the Salina assignment.

In the latter part of 1985 Claimant Dix addressed an undated letter to the Organization contending that he was entitled to also be certified for protective benefits as a result of the Carrier's abolishment of the Salina assignment. In part here pertinent, Claimant Dix said:

"May 1 [1985] I was bumped [from a local freight assignment] and was able to go to thru frt May thru June account of vacations. July to Aug. 13th [1985] I went on local 604-605 until bumped by F. Miller. I went on temporary vacancy from Aug. 16 to Aug. 22 until last man came off vacation and displaced me (Fireman Breedlove).

I then would have been able to go to Salina switch eng as engr or Fireman if not for giving up the job to U.P. It took this long for all the moves created by vacations to affect me and I feel I have been left without a job do (sic) to giving up Salina job.

Please consider the request as my union representative. I feel I have been affected and if I can't get any satisfaction from my union I will go to my congress (sic) representatives.

I am working on Fireman's extra board at present time."

FINDINGS AND OPINION OF THE BOARD:

This Board is not persuaded from its review of the record and the work history of Claimant Dix that he was adversely affected by the abolishment of Job No. L622 at Salina, Kansas, either in a direct manner or by reason of being involved in a chain of displacements flowing from such abolishment.

The language of the New York Dock Conditions clearly sets forth that, to be considered protected, an employee must be adversely affected as a direct result of a transaction. Further, prevailing arbitral authority has been to the effect that displacement from a job as the result of some other force or factors subsequent to a transaction does not, per se, render or place an employee in the status of a protected employee. Accordingly, this Board fails to find from the information presented that it may be concluded that there was a causal nexus between abolishment of the Salina assignment on June 1, 1985 and Claimant's unfounded contention that it took until August 22, 1985 for a series of displacements to affect him and that it was a job to which he could have displaced to on August 22, 1985 had it not been abolished.

AWARD:

The Question at Issue is answered in the negative. The New York Dock labor protective conditions are not found to be applicable to Claimant Dix 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