

PUBLIC LAW BOARD NO. 1052

AWARD NO. 1

UNITED TRANSPORTATION UNION (E)

VS.

PITTSBURGH, CHARTIERS & YOUGHIOGHENY RAILWAY COMPANY

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STATEMENT OF CLAIM

Time Claim #71-1, dated February 4, 1971, Foreman J. F. Panno and Helpers W. R. Price and J. R. Pieta: "Allow one days pay for J. F. Panno and crew for preparing an interchange train on a foreign interchange track (41 & 5 Scully Yd. Penn Central) for movement to the PC&Y Ry."

STATEMENT OF FACTS

Claimants seek penalty pay because they coupled some air and released some retainers on cars received in interchange.

DISCUSSION

The Organization cites no provisions of the Agreement which would require Carrier to pay Claimants extra compensation for performing this service, but we are asked to sustain this claim because,

"...the principles of Interchange are well established by the First Division . . . and Public Law Boards . . . that when a delivering carrier is making an interchange delivery to a receiving carrier . . . the cars placed on the interchange track must all be coupled together, all air hoses must be tied up . . ."

No award is cited by Petitioners in support of such claimed principles.

This type of submission is indicative of a growing trend toward reliance on asserted but unidentified holdings of the National Railroad Adjustment Board or Public Law Boards. We respectfully observe that the salutary design of the Railway Labor Act to promote harmonious labor-management relations would be ill-served by encouragement of this trend.

Indeed, it would be grossly improper for this arbitration board to sustain this claim on the basis of putative "principles" not shown to be directly applicable to the Agreement between the parties hereto. Boardssuch as this were never intended to function as authors of railroad common law. The carriers and the unions themselves are far more qualified to framethe contracts governing their relationship than are ad hoc arbitral boards.

Most importantly, we would remind Petitioners that the entire burden of proof rests on the grieving party. The discharge of this burden requires a submission containing the following:

1. An uncontested statement of facts, or supporting factual data sufficient to form the basis of a finding of fact, and
2. Citation of one or more specific rules on the property supporting the claimed rule violation.

In the absence of this requirement no sustaining award is proper, for we are not clothed with the authority of a court of equity. Even if we were it should be apparent that when a delivering carrier leaves a train in improper order, it is the receiving

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carrier, not its employees, who suffers the principal loss.  
This fact will serve to encourage the receiving carrier to protect its employees from unnecessary work on interchange cars.

FINDINGS

This is no showing of agreement support of this claim.

Claim denied.

*David H. Brown*

DAVID H. BROWN, Chairman and  
Neutral Member

*P. N. Mansfield*

P. N. MANSFIELD, Carrier Member

*E. F. Brehany - 2150 Century*

E. F. BREHANY, Organization Member

April 25, 1973