

MEMORANDUM OF AGREEMENT

between

THE WESTERN PACIFIC RAILROAD COMPANY

and its Employees Represented by

BROTHERHOOD OF RAILROAD SIGNALMEN

\* \* \* \* \*

Pursuant to the provisions of Public Law 89-456, an amendment to the Railway Labor Act, approved June 20, 1966, IT IS AGREED:

1. A Special Board of Adjustment, hereinafter referred to as the Public Law Board, shall be established on The Western Pacific Railroad Company to resolve those disputes between the parties to this agreement defined in the list of cases attached and made a part of this agreement, identified as "Attachment 'A'".

2. The Organization member of the Public Law Board shall be Mr. R. T. Bates, Vice President. The Carrier member of the Public Law Board shall be Mr. W. A. Tussey, Manager of Personnel. The parties reserve the right to change their respective members from time to time and at anytime.

3. The Public Law Board shall meet in San Francisco, California and shall establish procedural rules for itself as may be necessary. The Public Law Board shall hold hearing on each dispute (claim or grievance) with the exception of any cases withdrawn from the Public Law Board by joint request of the Carrier and the Organization. At hearings the parties may be heard in person, by counsel, or by other representatives, as they may elect, and may present either orally or in writing, statements of facts, supporting evidence and data and argument of their positions with respect to each case being considered by the Board.

4. Due notice of all hearings shall be given. The determination that a third or additional parties may have an interest in a dispute shall be made by the Board only as constituted with a neutral member acting and concurring to consider and decide whether notice and opportunity to be heard should be given to such third or additional parties and due notice of such possible interest shall be given to such third or additional parties. Any award in a dispute where such notice of hearing has been given to third or additional parties shall be made only by the Board so constituted with a neutral member acting and concurring. Third or additional parties shall be given the same full and fair hearing procedures as are provided for the parties hereto.

M/A Bet. WP-BRS

113 - PL Board #317 BRS

5. The Public Law Board shall make findings and render an award in each case submitted to it with the exception of any cases withdrawn from the Public Law Board by joint request of the Carrier and the Organization. Such findings and award will be in writing and a copy shall be furnished the respective parties to the dispute. Each member of the Public Law Board shall have one vote, and a majority of the Public Law Board shall be competent to render an award or make such other rulings and decisions necessary to carry out the functions of the Public Law Board. In case a dispute arises involving an interpretation of an award while the Public Law Board is in existence or upon recall within 30 days thereafter, the Public Law Board, upon the request of either party, shall interpret the award in light of the dispute.

6. Awards of the Public Law Board shall be rendered in accordance with the Railway Labor Act and shall be binding on the parties as set forth in said Act. An award and order which requires the payment of money shall be definite and specific as to the method of computation of the amount, the amount to be paid, the time within which it is to be paid and the person or persons to whom it is payable.

SIGNED AT SAN FRANCISCO, CALIFORNIA, THIS 2ND DAY OF JULY, 1969:

FOR THE EMPLOYEES:

R. T. Bates  
R. T. Bates  
Vice President  
Brotherhood of Railroad Signalmen

FOR THE CARRIER:

W. A. Tussey  
W. A. Tussey  
Manager of Personnel  
Western Pacific Railroad Company

San Francisco, California  
July 2, 1969

5. The Public Law Board shall make findings and render an award in each case submitted to it with the exception of any cases withdrawn from the Public Law Board by joint request of the Carrier and the Organization. Such findings and award will be in writing and a copy shall be furnished the respective parties to the dispute. Each member of the Public Law Board shall have one vote, and a majority of the Public Law Board shall be competent to render an award or make such other rulings and decisions necessary to carry out the functions of the Public Law Board. In case a dispute arises involving an interpretation of an award while the Public Law Board is in existence or upon recall within 30 days thereafter, the Public Law Board, upon the request of either party, shall interpret the award in light of the dispute.

PUBLIC LAW BOARD NO. 317

PROCEDURAL ISSUE NO. 1

WESTERN PACIFIC RAILROAD COMPANY

BROTHERHOOD OF RAILROAD SIGNALMEN

DON HAMILTON, REFEREE

PROCEEDINGS OF THE BOARD:

This Board is convened to determine a procedural issue raised by the failure of the Organization and Carrier to agree on the consist of Public Law Board No. 317.

The Organization has proposed that a certain case now pending before the Third Division of the National Railroad Adjustment Board be submitted to Public Law Board No. 317 for adjudication. The case arises from an alleged violation by the Carrier of the current Signalmen's Agreement. The Carrier asserts that the International Brotherhood of Electrical Workers are proper parties to the dispute and denies that Public Law Board No. 317 has jurisdiction of said case.

Basically, the issue appears to be whether a Public Law Board has the authority to render a decision in a so-called third party case.

The Railway Labor Act as amended provides:

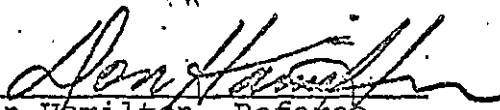
"If written request is made upon any individual carrier by the representative of any craft or class of employees of such carrier for the establishment of a special board of adjustment to resolve disputes otherwise referable to the adjustment board, or any dispute which has been pending before the adjustment board for twelve months from the date the dispute (claim) is received by the board, or if any carrier makes such a request upon any such representative, the carrier or the representative upon whom such request is made shall join in an agreement establishing such a board within thirty days from the date such request is made."

The case now pending before the National Railroad Adjustment Board has been before that tribunal for more than twelve months and a request has been made by the Organization to resolve the same before Public Law Board No. 317. The Carrier has failed to offer any legal reason why the same should not be considered and decided by said Public Law Board.


The matters which arise in regard to the so-called third party issue will have to be resolved by the neutral assigned to hear the merits of the case if in fact such is deemed to be an issue in the dispute.

Therefore, it is the order of this Board that the Organization and the Carrier proceed immediately to complete the arrangements for establishing Public Law Board No. 317 and that the case which forms the foundation of this claim be assigned to said Board for final adjudication.

PUBLIC LAW BOARD NO. 317

  
Don Hamilton, Referee

  
R. T. Bates, Employees Representative

  
W. A. Tussey, Carrier Representative