

PUBLIC LAW BOARD NUMBER 3530

Award Number: 52  
Case Number: 52

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Semi-Tractor Trailer Operator, B. W. Songer, P. O. Box 326, Staffordsvill, VA 24167, has filed claim for \$90.00 in special travel allowance for the months of March and April, 1984. Claim was handled on the property in accordance with Railway Labor Act and agreement provisions. Employees request pay for Mr. Songer as he is entitled to such.

FINDINGS:

Claimant, during March - April of 1984, was assigned to the position of Semi-Tractor Trailer Operator (hereinafter STTO). During that time, Claimant submitted requests for special travel allowances, which were rejected by Carrier. By letter dated June 29, 1984, the Organization filed claim on behalf of Claimant for the travel allowance.

The issue to be decided in this dispute is whether

Claimant is entitled under the Agreement to the special travel allowances.

The Organization's position is that Section (g) of the December 1, 1983 Agreement entitles Claimant to ten dollars per week for performing work away from his home division. The Organization contends that Claimant's home division was Radford, Virginia and that the Radford division became the Roanoke division as a result of the 1983 Agreement. The Organization further contends that Claimant worked away from that home division on several occasions. The Organization rejects Carrier's allegation that Claimant had no home division and was therefore ineligible for the travel allowance. The Organization maintains that every employee has a home division, and that Carrier officials have admitted that an employee with a home division beside his name in effect has a home division, and is entitled to the ten dollar allowance when working outside it.

The Carrier's position is that Claimant is not entitled under the 1983 Agreement to the special travel allowance, due to the fact that Claimant had no home division from which to travel.

Carrier initially cites Roster No. 7945, which includes Claimant's name, position, and seniority date. Carrier argues

that since this roster showed no home division for Claimant, it stands as evidence that no home division existed. Carrier additionally cites Roster No. 7958, covering foremen, which clearly states each employee's home division. Carrier argues that if STTO employees had home divisions, they would be specifically listed on the roster. Carrier alleges that the STTO positions were established solely to transport track machinery, and that it would be illogical to infer that such employees were restricted to "home divisions", since the equipment operated by those employees was for use on the entire system.

Carrier therefore contends that Section (g) of the 1983 Agreement is inapplicable, since it mandates payment only when an employee is "...working off of his division seniority." Carrier argues that absent a "division", Claimant cannot claim right to compensation under this section.

After review of the record, the Board finds that the Organization's claim must be denied.

The Organization has failed to sustain its burden of proof in the present case. In order to prevail, the Organization must establish that Claimant had entitlement under Section (g) of the 1983 Agreement. In order to establish such entitlement, it is necessary to establish that Claimant in fact had a home

division. We find that the Organization has failed to establish that Claimant's home division was the Roanoke division. The Organization's assertion that "every" employee has a home division and that Claimant's was Roanoke lacks the evidentiary support required to sustain its burden of proof. Carrier introduced evidence that the nature of the position is inconsistent with any "home division", and further that Claimant's roster fails to indicate any home division. Since we are unconvinced that Claimant possessed a "home division", we cannot conclude that Section (g) would cover any work performed by Claimant.

AWARD

Claim denied.

Nicholas Kumar  
Neutral Member

J. A. Abbatello Jr.  
Carrier Member

Bruce L. Ball  
Organization Member

Date: 1-21-87