

PUBLIC LAW BOARD NO. 4104

Case No. 2 and 3

PARTIES TO DISPUTE:
Employees

Brotherhood of Maintenance of Way

VS.

Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim of the System committee of the Brotherhood that:

1. "I am appealing to you from the decision of Superintendent L.R. Burk, concerning his letter dated February 23, 1982 and bulletins CT-4 through CT-12 concerning an alleged consolidation of Sections.

* * *

In view of the above I am requesting bulletins CT-4 through CT-12 be cancelled and positions remain as they were prior to their issuance."

2. "I am appealing to you from the decision of Superintendent R.L. Beem, Hannibal, Missouri, concerning Bulletins OT-29 through OT-41 and the consolidation of section limits in the Galesburg Terminal.

* * *

In view of the above I am requesting these bulletins be cancelled and positions remain as they were prior to their issuance."

OPINION OF BOARD: The relevant facts of this claim are not in dispute. Effective March 15, 1982, Carrier changed the work week of certain Gangs from a Monday-Friday work week (Saturday and Sunday rest days) to Thursday through Monday work week (Tuesday-Wednesday rest days).

As a result, the Organization filed the this claim. Carrier timely rejected it. Thereafter, the dispute was handled in the usual manner on the property. It is now before this Board for adjudication.

The issues raised in this claim are virtual identical to those in Case Nos. 9, 10 and 11, decided herewith. However, while these

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claims were sustained, there is no basis for awarding any monetary damages in Case Nos. 2 and 3. These cases involved essentially a change in work week, but not time claims which would result in monetary payments. Moreover, Carrier should not be required to pay damages because Claimants in this dispute voluntarily bid on the staggered assignments and as the senior bidders, Carrier was obligated to award them the assignments at issue. Given these factors, this Board shall sustain the claim as it pertains to the issue of postings but shall not order any monetary compensation.

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FINDINGS: The Public Law Board No. 4104 upon the whole record and all of the evidence, finds and holds:


That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934:

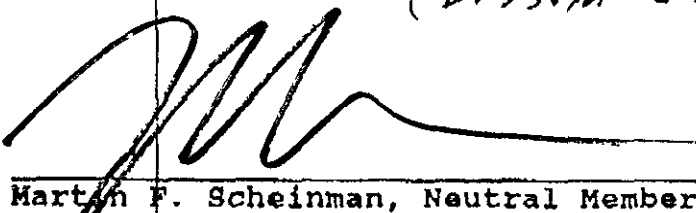
That the Public Law Board No. 4104 has the jurisdiction over the dispute involved herein; and

That the Agreement was violated.

AWARD: Claim sustained to the extent indicated in the Opinion.


P. Swanson, Employee Member


E. Kallinen, Carrier Member
(Dissent attached)


Martin F. Scheinman, Neutral Member

December 6, 1959

CARRIER'S DISSENT
TO THE AWARD IN CASES
2 AND 3 OF PUBLIC LAW
BOARD 4104

Dissent to this decision is required because the needs for establishing staggered five-day assignments at Cicero, Illinois were included in the same submission as covered Cases 9, 10 and 11 to this Board.

Our protests as outlined in Carrier's Dissent to the Award in cases 9, 10 and 11 are also applicable to the decision rendered here.

Respectfully submitted,


E. J. Kallinen, Carrier Member

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