PUBLIC LAW BOARD NO. 4553

Case No. 2
Award No. 2

Parties International Association of Machinists and

to Aerospace Workers, AFL-CIO

Dispute:

and

CSX Transportation, Inc.

Statement of Claim: "Claim filed on behalf of Machinists S.W. Hawkes, E.G. Gregory, R.G. Pearson, S.L. Gregory and E.C. Bordsdorf, for all vacation rights to which they are entitled by utilizing the total time employed on the Seaboard System Railroad, including both the former SCL and L&N Railroad systems, when computing their days of compensated service and years of continuous service for vacation qualifying purposes."

The Board, upon the whole record and all the evidence, Finds that the Employee and Carrier are Employee and Carrier within the meaning of the Railway Labor *Act,* that the Board has jurisdiction over the dispute and that the parties to the dispute were given due notice of the hearing.

Findings: This claim arose from the layoff and recall of several employees who, during several, distinct periods of time, worked for the former Seaboard

Coast Line Railroad (SCL) and/or the former Louisville and Nashville Railroad (L&N). As a historical note, the SCL and the L&N merged to form the Seaboard System Railroad which eventually evolved into the entity currently known as CSX Transportation, Inc.

The Organization, on behalf of the five claimants, seeks to compel the Carrier to combine the Claimants' years of service on the two former railroads for vacation qualifying purposes with CSX, Inc., their current employer.

The Carrier argued that there are no agreement rules which support the Organization's claim.

Further, the Carrier asserts that there was no agreement under which the claimants had a right to transfer from the SCL at Tampa to the L&N at Louisville. Also, the Carrier contends that there was no agreement which granted the claimants a right to have their years of service under the L&N Schedule Agreement counted as qualifying years of service for vacation under the SCL Schedule Agreement or vice versa.

At issue in this case is the intent of the Organization's General Chairman when writing his letter of April 3, 1985 to the Carrier's Director of Labor Relations, J.T. Williams. On its face, the letter conveys the Organization's request to have all claims concerning computation of years of service under the Seaboard System Railroad for vacation qualifying purposes handled in the same manner. The letter references, and suggests without specific details, a previous claim which would serve as precedent for all future claims of a similar nature. The agreement was obviously intended to prevent repetition of claims, a common practice in railroad labor relations. In his letter, the General Chairman made reference to new claims, which had surfaced subsequent to the initial claim, to be tiled on behalf of the newly discovered claimants. Additionally, the Organization proposed that these additional claims when filed would be subject to the ruling made on the original claim. Subsequently, this letter was countersigned by J.T. Williams, Director of Labor Relations, indicating the Carrier's agreement with the Organization's proposal.

The instant claim was filed on June 14, 1985 approximately ten weeks after the parties had reached agreement on the handling of all future claims and the newly discovered claimants' return to work on the SCL

After careful examination and thorough consideration of the entire record this Board concludes that the Carrier did not violate the agreement and that there is no rule support for the Organization's claim. Specifically, the third paragraph of the Organization's letter of April 3, 1985 indicates that all future claims of furloughed SCL employees, which included the instant claimants, would be handled in accordance with the decision which was eventually rendered in PLB4014. Award No. 2 (Carey).

It is unrefuted by the Organization in this record that three of the instant claimants were working on the L&N after having been furloughed by the SCL and then eventually rehired by the SCL after the Organization made its proposal to hold all similar claims in abeyance pending the outcome of its claim on the L&N. When the five claimants in this case were recalled to work by the SCL, the Organization tiled the instant claim. Clearly, the Organization's letter of April 3, 1985, when addressing the potential of additional claimants with similar claims, contemplated the claimants' return to service on the SCL.

This Board cannot now modify an understanding reached by the parties, because one party does not agree with the outcome of the bargained for agreement. The Organization seeks a second bite of the apple through this grievance after being disappointed by the outcome of original claim.

This Board recognizes and approves of the rationale and decision set forth in PLB 4014 Award No. 2 (Carey). Further, the Board finds that the parties bargained for and reached an understanding that the decision rendered in PLB4014 Award No. 2 would serve as binding precedent for the settlement of all similar claims tiled by the Organization, including the instant claim. The parties must live with their bargain or alternatively negotiate a new resolution to the dispute in a future context.

Additionally, the Organization argues that the Carrier violated the time limits of the agreement during the processing of this claim. The Board finds that argument to be unpersuasive in light of its recognition of the parties' agreement to be governed by the precedent established in the claim decided by Public Law Board 4014, Award No. 2 (Carey).

This Public Law Board, upon the whole record and all the evidence, finds and holds:

The claims of Machinists S.W. Hawkes, E.G. Gregory, R.G. Pearson, S.L. Gregory and E.C. Bordsdorf for all vacation rights to which they are entitled utilizing the total time employed on the Seaboard System Railroad, including both the former SCL and L&N Railroad systems, when computing their days of service and years of continuous service for vacation qualifying purposes is denied based upon the reasons expressed in the body of this Award. The Board concludes that the agreement was not violated.

AWARD:

Claim denied.

David M. Lefkow, Chairman and Neutral Member

M. M. Jolly, Employee Member R. D. Hiel, Carrier Member

February 1, 1989

Chicago, Illinois