

PUBLIC LAW BOARD 4665

PROCEDURAL AWARD

PARTIES)	INTERNATIONAL BROTHERHOOD
)	OF FIREMEN & OILERS
)	
TO)	VS.
)	
)	MINNESOTA, DAKOTA, AND
DISPUTE)	WESTERN RAILWAY COMPANY

The members of this Board representing the Carrier and the Employees having been unable to agree on a procedural matter, Michael Fischetti was then duly appointed Neutral Member of the Board by the National Mediation Board for the purpose of determining the said procedural matter under the provisions of Public Law 89-456.

Procedural Question for Decision: Should the Carrier be required to sign an Agreement establishing a Public Law Board to dispose of three claims shown on Attachment A of the proposed Agreement?

Position of the Parties: The Organization contends that "the cases on Attachment A of a public law board agreement generally rests with the petitioning party." The Organization maintains that the Railway Labor Act under General Purposes, Section 2, provides for "the prompt and orderly settlement of all disputes growing out of the interpretation or application of agreements covering rates of pay, rules, or working conditions." The Organization further maintains that the Railway Labor Act, Section 3 - Second provides that "...the carrier or the representative upon whom such request

thirty days from the date such request is made."

The Carrier contends that it is acting properly by not signing the proposed Agreement, Attachment A, because the Organization has not, in this instant case, exercised its duty under the Railway Labor Act to fully explore and review the referenced cases during their handling on the property. The Carrier's major concern is that the claims which were filed by the Organization "seem to never be attempted to be settled by them..." Moreover, the Carrier asserts that each claim should be handled on the property as individual issues. Accordingly, for each case there should be a separate Public Law Board Agreement and the assignment of a neutral member by such individual case.

Findings: The Parties met with the Referee and could not mutually agree on the terms of the Agreement, Attachment A, which by reference is incorporated and made part hereof.

Based on the documents presented by the Parties, the Referee finds as follows:

1. The Organization is correct in its interpretation of Public Law 89-456, 45 USCA, Section 153. Second.

2. That it has been common practice in the past for boards of procedural jurisdiction to require establishment of Public Law Boards with more than one case to be heard. For example, see the following: PLB's 265, Dietz, 742, Dugan, 1021, Weston, and 2360 Criswell.

3. The Railway Labor Act provides for the establishment of Special and/or Public Law Boards on motion of the moving party, in the instant case, the Organization, which it allowed to

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designate the "disputes" or "cases."

4. That the Carrier's request for a Special Board to hear each claim separately is not consistent with past practice.

AWARD: For the reasons set forth herein, the Carrier is directed to enter into the Agreement establishing a Public Law Board to determine the disposition of claims on the referenced Attachment A.

Michael Fischetti

Michael Fischetti
Procedural Neutral

Dated: July 26, 1989

Elmer L. Braaten (President)

Elmer L. Braaten
Carrier Member

David L. Horton

David L. Horton
Employee Member

8-12-89