

PUBLIC BOARD NO. 5464

PARTIES Brotherhood of Locomotive Engineers

 TO and

DISPUTE: Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim is appealed for Engineer S. C. Watson, et al, claiming tow-in various amounts March 23, 1993, et al, per TS 35, dated February 23, 1993, listed in Attachment A."

STATEMENT OF FACTS: The Claimants operate in Inter-Division service between La Crosse, Wisconsin, and Cicero, Illinois, pursuant to an intra-seniority district agreement dated December 18, 1980. Part of their trip assignment is to deliver their train to a foreign carrier yard in the Chicago area. On the claim dates, the crew's time expired under the Hours-of-Service law before making the delivery to the foreign yard.

FINDINGS: This Board, upon the whole record and all of the evidence, finds that the Employees and Carrier involved in this dispute are respectively Employees and Carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute involved herein.

DECISION: The claim is made pursuant to Section 11 of the aforementioned Intra-Seniority District Agreement (OPS38-80) which reads:

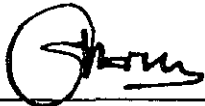
"Section 11. If an engineer performed intra-seniority district service who is not already on overtime does not complete his trip within the twelve hours provided under the Hours of Service Act he will be paid on a minute basis at the rate of 3/16 the basic daily rate per hour applicable to his trip from the expiration of the permissible on-duty hours until he has arrived at (1) the terminal to which he was called, (2) his home terminal or (3) a location where lodging and meals are available."

The key factor in applying this language is whether the crew members completed its trip within 12 hours. It is the Board's opinion that the delivery of the train to the foreign yard was part of their trip. In view of this fact and the fact that their hours expired prior to completion of the trip, Section 11

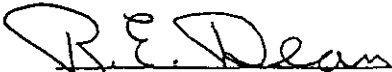
applies. It is noted in this regard that for some eight years prior to these claims the Carrier did apply Section 11 in such circumstances. Given the nature of the language and this past practice, there is no basis to conclude that these claims should be handled in any way different than they have for many years.

AWARD


The Claims are sustained.



Gil Vernon, Chairman and
Neutral Member



Ron Dean
Union Member



Gene L. Shire
Carrier Member

Dated: May 31, 1995.