

PUBLIC BOARD NO. 5464

PARTIES Brotherhood of Locomotive Engineers

TO and

DISPUTE: Burlington Northern Railroad Company

STATEMENT OF CLAIM: Claim on behalf of Great Falls Engineer W. G. Stanich for one (1) hour at applicable rate when required to assist Train No. 15 in removal of two (2) cars from No. 15 and spotting same cars on North Five track at Shelby, MT on September 10, 1991.

STATEMENT OF FACTS: The basic facts are not disputed. On September 10, 1991, the Claimant was performing service as the Engineer on train 602. Train 602 is a train that is designated to perform local freight service. During the Claimant's tour of duty, instructions were issued that required this local meet train No. 15 at Shelby, Montana. When No. 15 arrived at Shelby, the Claimant participated in the act of removing two railcars from the rear of No. 15's train, traffic that was destined for Shelby, Montana, and placed these railcars on North Five Track. The Claimant's crew then replaced the End-of-Train Device on Train No. 15's train and assisted in performing the air test.

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 advanced on the basis of Rule 15 which reads:

" . . . [E]ngineers required to double their trains enroute or assist another train will be paid miles or hours, whichever is the greater, with a minimum of one (1) hour, at the pro rata rate, independent of and in addition to the regular road trip." (underlining added)

The position of the Parties is simple. The Organization contends that by doing work in connection with Train No. 15, the Claimant's crew "assisted" another train within the clear meaning of the agreement. They also rely on First Division Award 20849 involving the same Parties. The Carrier argues that the rule only has application to work that the Claimant's crew couldn't

have ordinarily done. They note in this regard that the Union agrees that if the crew of Train No. 15 had simply left these railcars on the mainline or anywhere else at Shelby, Montana, the Claimant could have done whatever was necessary in order to then place these railcars where they belonged. Thus, the Carrier contends that in order to be deemed to have assisted another train, the Claimant must show that there was work performed which would have been performed "but for" the fact the Claimant assisted another train.

The Board has considered the arguments of the Parties. Indeed, the plain language of the agreement supports the Organization. The Carrier's position, while well presented, does not persuade us to ignore the straightforward meaning of the disputed language. The distinction that the Carrier urges us to read into the rule just simply does not appear in the rule or in the bargaining history. On the contrary, the past practice supports the Organization. In addition, to Award 20849, the record indicates that the Carrier paid similar claims without dispute from 1966 until September of 1991.

AWARD

The Claim is sustained.



Gil Vernon, Chairman and
Neutral Member



Ron Dean
Union Member



Gene L. Shire
Carrier Member

Dated: ~~February~~ ^{MARCH} 31, 1995.