

Parties to Dispute:

United Transportation Union

and

Central of Georgia Railroad Company

Statement of Claim/Grievance:

Claim dated September 13, 1996 on behalf of Extra Board Employee A. J. Pope for one day's pay account not being called to work on Brandt machine on Griffin District on August 6, 1996 and on continuous days; and Grievance dated September 9, 1996, due to the Brandt machine performing work train service without a conductor or trainmen.

Opinion of Board:

This case stems from the Carrier's purchase of a Brandt truck that is being operated by its track maintenance personnel. The Brandt truck is a highway tractor that is also equipped to operate on rail. The operator is required to possess a CDL truck license.

On August 6, 1996 the Brandt truck operated between MP S-192 and MP S-222 unloading tie plates and anchors in conjunction with track maintenance work. It has performed other work of similar nature on successive days since that date. Claimant Pope stood first out on the Conductor's Extra Board on August 6, 1996 but was not called to work with the Brandt truck. Subsequently, the claim and grievance at issue were submitted by the Organization.

The Organization forcefully argues that the Brandt truck is nothing more than a substitute for a locomotive. The service in which it is being used is work train service requiring the utilization of a conductor under current agreements. Alternately, if it were determined to be a self-propelled machine under Article 20 of the Road Schedule Agreement, then it would still require a conductor. It is equipped with a drawbar and is capable of moving freight cars. Moreover, it operates under track warrants and, the Organization states that, they are no different from train orders.

Additionally, if the Brandt truck is determined to be a self-propelled machine, the Organization contends that if it operates in any manner within switching limits, then yard service

employees stand to be used in accordance with the provisions of Article 28 of the Yard Schedule Agreement.

The Carrier argues that the Brandt truck is clearly distinguishable from a locomotive. Its primary purpose is not to pull rail freight cars, unlike that of a locomotive. Rather, it is a highway truck that has the capability to operate on rail for specific purposes. A CDL truck license is required to operate it. It is equipped with a crane and other appurtenances that are designed for on or off rail track maintenance work. Clearly, it is a self-propelled machine as that term has always been understood under Article III of the 1964 UTU National Agreement and Articles 20 and 28 of the respective Schedule Agreements.

The Carrier states that, since the Brandt truck is not a locomotive, its use is not governed by the provisions of the Schedule Agreements governing work train service. Rather, the provisions governing the operation of self-propelled machines apply to the operation of the Brandt truck. When operated on line of road under track warrants no conductor is required because track warrants are functionally distinguishable from train orders. This position is supported by many years of operating other self-propelled machines without conductors under track warrants elsewhere on the affiliated properties without objection.

The Carrier also posits that making up or putting away the Brandt truck consist within switching limits, prior to or after it performs road maintenance work, is incidental to that road maintenance work and does not require the services of yard employees. In such instances, the Carrier argues, no yard maintenance work is being performed. Therefore, the threshold governed by the intent of the provisions requiring the use of yard service employees has not been triggered. Additionally, the Carrier asserts that PLB 4886, Award 40, recently decided on Norfolk and Western Railway Company, fully supports its position in the instant case.

The Board is impressed by the exhaustive arguments presented by both the Organization and the Carrier during the presentation of this dispute. It is apparent that considerable effort has been expended by the respective parties in developing their positions. After a thorough review of the record, the Board is convinced that the Carrier's position is more persuasive.

Initially, after carefully examining the character of the machine and the work involved, the Board is convinced that the

Brandt truck is not a substitute for a locomotive. Instead, it is apparent that it is a self-propelled machine. Therefore, the rules governing the manning of work trains do not apply to its operation.

With respect to track maintenance performed by the Brandt truck on line of road, we concur with the decision in PLB 4886, Award 40. A conductor/pilot is not required when the movement is governed by track warrant. We hold that track warrants are different from train orders as the term "train order" is used in the governing agreements.

We also hold that making up or putting away the Brandt truck consist within switching limits prior to or after performing road maintenance service does not require the utilization of yard service employees so long as no yard maintenance work is performed outside of confined areas within the switching limits. We agree that such movement is incidental to the road maintenance work and does not take away any rightful work from yard service employees.

Findings:

The agreement was not violated.

Award:

Claim and grievance denied.

Dated at Norfolk, Va. this 20th day of June,
1997.

J. B. Criswell
J. B. Criswell, Neutral Member

Robert J. Kuhn
R. J. Kuhn, Carrier Member

Bruce S. Daniel "I dissent"
B. S. Daniel, Organization Member

Carrier File: VC-ATHA-96-10
Org. File: VC-ATHA-96-10