PUBLIC LAW BOARD NO. 5970

Award No. 7
Case No. 2
Carrier File No. CTB 94-09-26BD
Organization File No. 196-1650-94b

Parties to Dispute:

UNITED TRANSPORTATION UNION

-and-

BURLINGTON NORTHERN SANTA FE RAILWAY

Statement of Claim: Claim of Missouri Seniority District (Beardstown) Conductor V. G. Schlueter, Brakeman D. A. Foster and Engineer K. J. DeSollar for three (3) twenty-five (25) mile runaround payments on May 19, 1994.

INTRODUCTION

This Board is duly constituted by agreement of the parties dated January 10, 1997 ("The PLB Agreement"), and as further provided in Section 3, Second of the Railway Labor Act ("Act"), 45 U.S.C. Section 153, Second. The Board, after hearing and upon review of

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the entire record, finds that the parties involved in this dispute are a Carrier and employee representative ("Organization") within the meaning of the Act, as amended.

FINDINGS

On May 19, 1994, the claimants, conductor Schlueter, brakeman Foster, and engineer DeSollar, were called to service at Beardstown, Missouri. The claimants were called on duty at 10:15 p.m. for train no. 74CT041. The claimants did not depart Beardstown until 11:55 p.m. Three other crews were called for duty at Beardstown by the Carrier after 10:15 p.m. to deadhead in "combined service" to Centralia, Illinois. (Carrier Exs. 1a, 1b and 1c). These three (3) crews departed via transport for Centralia before the claimants' departure time of 11:55 p.m. As a result, the claimants filed three (3) separate non-trip time slips, dated May 24, 1994, claiming three (3), twenty-five (25) mile runaround payments. (Carrier Exs. 2a, 2b and 2c). The Carrier declined these runaround payments.

The central issue in this dispute is whether a runaround occurred at the initial terminal when the three train crews deadheading in "combined service" departed from the terminal prior to the claimants when the claimants had been called and arrived at Beardstown ahead of the three deadheading crews. The Carrier contends that Article VI, Section 1(a) of the October 31, 1985, National Agreement supports a finding that a runaround did not occur in the case at issue. Article VI, Section 1(a) revised existing rules covering deadheading and provides, in

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relevant part: "Deadheading and service may be combined in any manner that traffic conditions require, and when so combined employees shall be paid actual miles or hours on a continuous time basis, with not less than a minimum day, for the combined service and deadheading." The Organization claims that the claimants were runaround, and that Schedule Rule 20 of the Rules and Rates of Pay for Conductors provides support for the payments requested by the claimants. Rule 20, "Pool Crews First In First Out," states:

> Pool crews will be run first in, first out, when the hours-of-service law will permit. If an available pool crew is runaround, 2 hours will be allowed and the crew will stand first out.
>
> (Canvass was made of the practice in effect on each Division which showed that generally speaking the arriving time was used in calculating the order of calling crews under Rule 20. It was agreed June 24, 1930 that in the future the arriving time in all cases will be used when the Hours of Service Law will permit.)

The Board finds that no runaround would have occurred, and the claimants would not be entitled to the two (2) hours of pay under Schedule Rule 20 if the incident at issue had occurred at the away-from-home terminal, instead of at the initial terminal. The reasoning for this finding is that crews deadheading in "combined service" are not marked up on the board at the away-from-home terminal; in other words, there is no vacancy at the away-from-home terminal for which another crew should have been called. Stated another way, a crew in combined service cannot runaround another crew assigned to service earlier at the away-from-home terminal because the deadheading crew is never marked up on the board at that terminal.

However, the incident in the dispute at issue occurred at the initial terminal. The Board finds that in this instance, Article VI, Section 1(a) of the October 31, 1985, National Agreement must be applied and interpreted in conjunction with the existing Schedule Rule 20. The Board finds that to do otherwise would render Schedule Rule 20 virtually meaningless. While a crew is not marked up on the board at the away-from-home terminal when deadheading in "combined service," and there is in effect no vacancy at the away-from-home terminal for which another crew should be called, the Board finds that the crews called in combined service here are on the board at the initial terminal. This holding does not prevent the Carrier from directing crews in "combined service" to depart the initial terminal before other crews which were called and on duty for service earlier than the crew in combined service. However, the Carrier must still comply with the requirements of Schedule Rule 20. Therefore, the Carrier may choose for operational efficiencies to runaround a crew at the initial terminal, but will still be required to allow two (2) hours of service to the pool crew that stood first out and was runaround.

The finding of this Board is distinguishable from SBA No. 1063, Award No. 84 in several respects. First, in the case at issue, Schedule Rule 20 contains the word "runaround" and provides that arriving time is to be used in calculating the order of calling crews. In contrast, the rule at issue in SBA No. 1063, Award No. 84 does not contain similar language and the board noted that fact. Secondly, Schedule Rule 20 specifically allows for two (2)

hours of pay if a crew is runaround. Finally, this Board does not interpret the language of Article VI, Section 1(a) in such a manner as to render Schedule Rule 20 null, void and meaningless to the parties. Article VI provides, in relevant part, that "[e]xisting rules covering deadheading are revised as follows: Section 1- Payment When Deadheading and Service Are Combined." Schedule Rule 20 does not cover deadheading, but rather involves running crews first-in, first-out, and an allowance if an available pool crew is runaround. The decision of the Informal Disputes Committee for the BLE and NCCC cited by the Carrier (Carrier Exhibit 8) concerned the following issue: "Does a runaround occur when deadheading and service are combined out of the away-from-home terminal and there are rested and available engineers at such terminal?" (Id at 39; underlining supplied). The Committee's negative answer to the issued presented was premised primarily on the historical evolution of Article VI, Section 1(a) from a BLE-Conrail rule that the combination of deadheading with service did not result in running around a rested and available engineer on the extra list or in a pool. This rule, in turn, was taken from a rule on a predecessor road interpreted to allow deadheading in and out of an away-from-home terminal regardless of whether or not engineers at the away-from-home terminal were rested and available for service. This is not the situation presented to this Board by the current dispute.

Therefore, the Board concludes that the claimants were runaround three (3) times on May 19, 1994, by other crews called to deadhead in "combined service" to Centralia, Illinois from their home terminal. According to Schedule Rule 20, the claimants are entitled to two (2) hours of pay for each instance that they were runaround.

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AWARD

The claim is sustained. The Carrier shall comply with this Award within thirty (30) days of issuance.

E. T. Koenig for
Edward T. Koenig, Carrier Member

K W Mason
Ken W. Mason, Employee Member

Jonathan L. Klein
Jonathan I. Klein, Neutral Member

Award issued the 18th day of May, 1998.