

PUBLIC LAW BOARD NO. 6776

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION LOCAL NO. 2052**

and

**THE PITTSBURGH & CONNEAUT
DOCK CO.**

**AWARD NO.5
CASE NO. 5**

STATEMENT OF CLAIM:

Pay D. Carr and J. Szalai 8 hours pay at time and one-half on August 6, 7 and 8, 2001, plus one extra day's pay each date per person for the Carrier's violation of Section XXV, Paragraph III of the Agreement (Guidelines for Manning).

FINDINGS:

Public Law Board No. 6776, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Operations at the Carrier's dock facility involve the transfer of bulk commodities such as coal from rail cars to lake vessels and ore between lake vessels and rail cars for shipment inland. On August 6, 7 and 8, 2001, coal became trapped in the No. 2 silo when the feeders became plugged during a loading operation. Water hoses were used to clear the coal that was stuck. The coal was recovered by using the No. 2 shiploader, running it over a series of conveyors, and dumping it on the ground. Dump trucks then hauled it to a stockpile site for storage.

The Organization contends that the coal was "recirculated" within the meaning of Section XXV, Paragraph III of the Agreement and that Carrier failed to follow the minimum manning requirements set forth therein. The coal in question was originally stockpiled on the ground, the Organization submits, and was later moved by conveyors to the silo. If the coal had not gotten stuck in the silo, it would have been moved by conveyor belt to a shiploader and dropped into a vessel. But because the coal became stuck in the silo, it was not moved to a vessel. Instead, the coal went back to the stockpile on the ground. The minimum manning provision for recirculating coal from the ground to the ground should have been observed under these circumstances, the Organization maintains.

The Carrier argues that this was a cleaning operation and that the minimum manning requirements for recirculation do not apply in this instance. Carrier further asserts that the cited Agreement language is inapplicable because the operation for recirculating coal is no longer possible due to changes in the system and equipment. Absent an express contractual limitation, the Carrier maintains that it has the discretion to staff and direct the work force as appropriate.

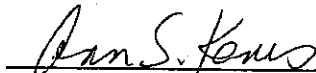
Carrier's arguments are not well-founded. The manning provision at issue stipulates only that coal must move from the ground to the ground to require the assignment of a recirculating crew. That the coal was in a silo for a time or that it was recovered from a silo does not change the fact that the coal ended up back on the ground, without being loaded out.

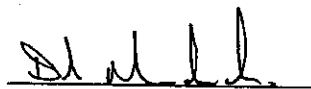
Moreover, neither the method nor the equipment used to recirculate the coal is stated in the Agreement. Even crediting the Carrier's assertion that some equipment that was once used at the dock for recirculation is no longer there, the Board must apply the Agreement as written. Had the parties intended to eliminate the manning requirement when certain machinery was eliminated, then presumably they would have done so. We find that the coal at issue in this case was recirculated with machinery that still exists, and therefore the Carrier should have assigned the Claimants to the operation. The Agreement was violated when the Carrier failed to do so.

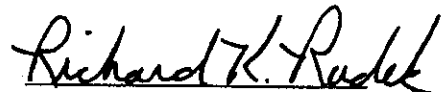
Although the Organization seeks two and one-half day's pay for each Claimant for each day of the violation as a remedy, it offered no explanation on the property for its request. Under the circumstances, the Board will exercise its discretion in formulating a reasonable penalty for the lost work opportunity. We find that the Claimants are to be awarded a basic day in addition to contemporaneous earnings, if any, for each day the violation of the manning requirements took place.

AWARD

Claim sustained in accordance with Findings.


ANN S. KENIS
Neutral Member


Carrier Member
Douglas Mandalas


Organization Member
Richard K. Radek

Dated this day of January, 2005.