

PUBLIC LAW BOARD NO. 164

Parties) Brotherhood of Railroad Trainmen
to)
Dispute) Union Pacific Railroad Company - Eastern District

Statement of Claim: Claims of various Laramie brakemen for 150 miles each on various dates in July, August and September, 1965, account not called to perform flagging service at MP 676.69.

Findings: During the hearing on this case the Organization came to agree that certain of the claims herein were not properly submitted, namely those covering several consecutive days on the first of which the claimants were respectively first out on the mornings thereof but would not have been first out on the succeeding mornings. The Organization has withdrawn from Board consideration all but such first days in such claims, said first days being July 19 and 26; August 2, 9, 16, 23 and 30; and September 7 and 13.

Applying to the facts of record on the service performed by the maintenance of way employees on said respective proper first days the principles set forth by this Board in its Award No. 1 in a similar sort of case, the Board finds that the main or core portion of their work was the giving of stop and proceed signals to road trains operating under train orders. That is, said employee's primary duties were not those of a section hand. Accordingly, said first day claims merit sustention.

But the sustention cannot be in the amount of miles (150) claimed. It must be only for 100 miles on each such date. This is because Rule 63, which specifies the 150 miles, does not apply to trainmen other than those "selected" by Carrier. That is, in return for being allowed to choose trainmen for such service in disregard of seniority rules Carrier in that Rule agreed to pay 150 miles per day; but in the subject case the first out sustained claimants might not have been so selected by Carrier, and each is thus entitled to only a basic day for the specified valid claim date in which he was involved.

Carrier is directed to pay each claimant within 45 days 100 miles for his valid claim date.

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AWARD NO. 4
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In this case, as in all cases Nos. 1 through 40, the Board formally invited the Maintenance of Way Organization to appear at the hearing and present its views. Said Organization declined to do so.

AWARD: Claim sustained to extent above set forth.

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Carroll R. Daugherty
Carroll R. Daugherty
Chairman and Neutral Member

J. H. Kenny
J. H. Kenny, Carrier Member

J. H. Shepherd
J. H. Shepherd, Employee Member

Omaha, Nebraska
August 20, 1968

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