

AWARD NO. 16

Case No. 16

Organization File No. 20 02 21 (001) PLR

Carrier File No.

PUBLIC LAW BOARD NO. 7460

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION
)
TO)
)
DISPUTE) PADUCAH & LOUISVILLE RAILWAY

STATEMENT OF CLAIM:

(1) The Agreement was violated when the Carrier failed to comply with the "me too" provisions and allow BMWED members to take another week vacation in single day increments [System File 20 02 21 (001) PLR].

(2) As a consequence of the violation referred to in Part (1) above, all employees covered by the BMWED Agreement shall be allowed to designate two (2) weeks of their vacation to be taken in single day increments.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated December 16, 2010, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

On July 15, 2019 the Carrier and the Organization reached an agreement in settlement of the Organization's December 17, 2018 Section 6 Notice. As part of that agreement, the parties amended Article VI - Vacations to read as follows:

- (b) (1) Employees will be required to submit vacation requests before December 1 of each year. When vacations are taken due regard consistent with requirements of the service shall be given to the desires and preferences of the employees in senior-

ity order when fixing dates for their vacations. Except as provided in Section (b) (2), below, vacations may be split in segments of not less than five days. Representatives of the Company and the Organization will cooperate in assigning vacation days.

(2) Commencing with the vacation year beginning January 1, 2020, employees who qualify to receive two (2) or more weeks of vacation may opt to designate one (1) week of their vacation to be taken in single-day increments, under the following conditions:

- (i) The employee must notify the Carrier of their desire to take one (1) week of vacation in single-day increments at the time they submit their vacation requests before December 1 of each year.
- (ii) Weeks of vacation taken in single-day increments will not be included in the vacation schedule.
- (iii) Single-day vacations may be taken upon forty-eight (48) hours' advance notice to the designated officer of the Carrier, subject to availability of extra employees.
- (iv) Unused single-day vacation days will not be carried over into the following year and will not be paid for if not used.

In connection with this Agreement, the parties agreed to Side Letter No. 1, which reads, in pertinent part, as follows:

The Carrier is currently engaged in bargaining with the other Unions representing its unionized employees. If, during this current round of bargaining, the Carrier reaches agreement on changes to wages or benefits with any other Union which the Organization believes are more favorable than the terms of our Agreement, the parties will meet promptly to address the differences; and, as appropriate, adjust the wage and/or benefit terms in our Agreement.

It is recognized that any more favorable wages or benefits in another Agreement that were the product of quid pro quo improvements for the Carrier in that Agreement, the parties will take such changes into consideration before any adjustments are made to the wage and benefit terms of our Agreement between the Paducah & Louisville Railway, Inc. and the BMWED.

The change in Article VI that is relevant to this dispute is Section (b)(2), which permits employees to take one week of their vacation allowance in single-day increments. Previously,

employees were required to take vacation in one-week increments. Thus, the Organization obtained a benefit that had been afforded some other crafts, including the International Brotherhood of Electrical Workers (IBEW). Subsequent to its settlement with the BMWED, the Carrier reached an agreement with the IBEW which modified their vacation provisions to allow employees to take a second week of vacation in single-day increments. The Organization argues the "me too" conditions of Side Letter No. 1 entitle its members to also take two weeks of vacation in single-day increments.

It is the Organization's position that the negotiations with the IBEW resulted in a more favorable benefit to those employees, *i.e.*, the right to take two weeks of vacation in single-day increments. The Organization denies the Carrier has proven it granted the second week as part of a *quid pro quo* exchange. It asks, therefore, that the grievance be sustained and that employees be permitted to take two weeks of their vacation allowance in single-day increments. The Organization asserts this change would be cost-neutral for the Carrier.

The Carrier explains it engaged in negotiations with other unions following its settlement with the BMWED. Specifically, it refers to agreements it reached with the Brotherhood Railway Carmen Division/TCU-IAM (BRC), the International Association of Machinists and Aerospace Workers (IAM&AW), the Transportation Communications Union/IAM (TCU-Clerks), and the Brotherhood of Railroad Signalmen (BRS), as well as the IBEW. The agreements with the IAM&AW, the TCU-Clerks, and the BRS had vacation provisions similar to that of the BMWED, *i.e.*, employees could take vacation only in one-week increments.

The IBEW and BRC agreements, on the other hand, had already permitted one week of vacation to be taken in single-day increments. Those organizations argued their members should be given a second week of single-day increments to retain the parity with the BMWED.

According to the Carrier, the IBEW, the BRC, the IAM&AW, and the TCU-Clerks subsequently began bargaining as a coalition. The Carrier agreed to give each of these organizations one week of single-day vacations. Consequently, the IBEW and the BRC have two weeks of single-day vacations, and the IAM&AW and the TCU-Clerks received their first week. The Carrier asserts the IAM&AW wanted to be on an equal footing with the other two shop craft unions, so it agreed to offer them a second week if they gave up the \$500 lump sum payment that was part of the pattern established in the BMWED agreement. The same offer was made to the TCU-Clerks and the BRS. The IAM&AW accepted the offer, but the TCU-Clerks and the BRS did not.

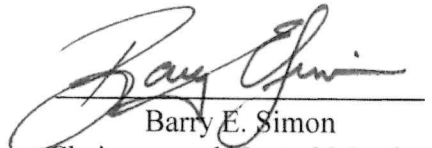
Once all of the agreements were ratified, the Carrier contacted the BMWED General Chairman and extended the same offer of exchanging the \$500 lump sum, which had already been paid, for the second week of single-day increments for vacation. The General Chairman responded that it would not be likely that the employees would return the lump sum payment.

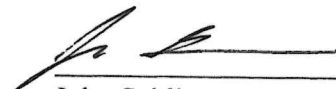
In reviewing the context of all of the negotiations, it is the Board's determination that all of the organizations, including the IBEW, were offered one week of single-day vacation usage. For some, that resulted in the first week. For others, it resulted in the second week. This week constituted the *change* to benefits that was the subject of Side Letter No. 1. The fact that the IBEW and the BRC already had one week was the result of previous negotiations, and simply provided the base for the week covered in the 2019 negotiations. To analogize, if the Carrier offered a 4% wage

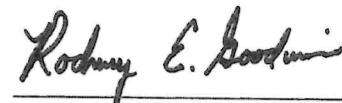
increase to other unions, the "me too" agreement would require the same 4% offer, even though the electricians' base wages as the result of prior agreements might be higher than the maintenance of way employees' wages. The Carrier would not be obligated to raise BMWED wages to equal those of the IBEW.

Based upon the record before us, we cannot find that the Agreement was violated.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


John Schlismann
Employee Member


Rodney Goodwin
Carrier Member

Dated: 12/18/2024
Arlington Heights, Illinois