

PUBLIC LAW BOARD NO. 71

AWARD NO. 8
CASE NO. 8
FILE T-1793

PARTIES BROTHERHOOD OF RAILROAD TRAINMEN
TO versus
DISPUTE: THE COLORADO AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Conductor J. V. Dietz, Brakemen C. C. Adams and E. I. Mullen, Denver, for payment of 100 miles at local rate, in addition to current allowances December 7 and 11, 1965, predicated on the allegation that the claimant train crew was required, while operating on the Denver-Loveland turn-around local on the two claim dates, to make a "side trip" in performance of station switching on the station track at Mile Post 62.35, sometimes referred to as "Walt".

FINDINGS: Claimants were called to operate the Denver-Loveland wayfreight with instruction "to handle local work Denver to Loveland and return as directed by Dispatcher and Agent's lists". After arrival at Loveland, the Agent there gave them list requiring them to pick up load at Walt, a point on the Arkins Branch, also called the Wilds Spur Branch. Claim is made for additional 100 miles on each date under Letter Agreement dated August 23, 1948, amending Rule 15, and as here pertinent, reading:

"It is also agreed that chain gang crews required to make side trips, except in emergencies, will be paid 100 miles in addition to the mileage of the trip, unless before they leave the terminal they are notified that they will make the side trip."

Carrier first asserts that the case is barred by the one-year time limit rule. Claim was declined by the highest officer by letter dated May 6, 1966. Request to extend the time limit was denied and, by letter dated May 5, 1967, to the highest officer, the General Chairman sought establishment of a Special Public Law Board for the purpose of disposing of this and other listed claims. This letter was inartificially composed in expressing a "desire" instead of a request for such Board but it stated that it was served under provisions of the Railway Labor Act and its intent was plain to comply with the statutory requirements. This Law Board was established by mutual agreement of the parties pursuant to that letter. The statutes should be given a liberal interpretation and we think the letter was sufficient. It was dated May 5, 1967, and the claim had been declined by the highest officer in letter dated May 6, 1966, and constituted the institution of proceedings for final disposition of the claim within one year from the date of the highest officer's decision.

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Carrier urges that Walt was within the switching limits of Loveland and switching on the Wilds Spur Branch was industrial switching rather than a side trip. There are no identified switching limits at Loveland. The Arkins, or Wilds Spur Branch, formerly extended westerly five miles or more from Loveland but it was put out of service beyond Mile Post 63.35 in July, 1965. Walt is one of the listed stations on the branch at Mile Post 62.35. No industry is shown to be located there and previously it was not considered a part of Loveland's southern district.

When claimant crews received instructions to proceed on the branch line to Walt, they were issued Clearance Form A, constituting authority to occupy the Wilds Spur Branch and they were allowed time on their regular time slips for doing the work there. Work on the Wilds Spur Branch had not been Loveland switching service. A bulletin was posted on August 2, 1966, nearly eight months after date of this claim, that Denver Division Timetable No. 2 is modified, as follows:

"Wilds Spur is discontinued. Walt and Rist are designated as industrial trackage at Loveland, Colorado, and Clearance Form A is not required at Loveland for switching this industrial trackage". (Carrier's Exhibit B).

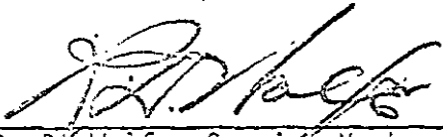
Such bulletin could not effect the status of the work prior to its posting.

Carrier further urges that the message given claimants at Denver before departure to handle local work as directed by Dispatcher and Agents' lists constituted notice of any side trip which was on the Agents' list they would receive at Loveland. We cannot concur in this contention.

AWARD: Claim sustained.

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Mortimer Stone, Chairman


R. D. Wolfe, Carrier Member


J. H. Shepherd, Employee Member

Denver, Colorado,
November 14, 1967.