



Brotherhood of Locomotive Engineers and Trainmen

GENERAL COMMITTEE OF ADJUSTMENT
Union Pacific Western Lines
404 North 7th Street, Suite A
Colton, CA 92324-2941
(909) 514-1056 • FAX (909) 514-1089

D.W. HANNAH
Chairman

September 21, 2007

Mr. A.C. Hallberg, Director Labor Relations
Union Pacific Railroad Company
10031 Foothills Blvd.
Roseville, CA 95747

Org. File E-0430-1(c)

Dear Sir:

Refer to Article 19, of the 1995 SP Local Agreement issues; specifically "Calling Engineers" for service. Said Article states as follows:

"ARTICLE 19 CALLING

Article 30, Sections 1(a), (b), (c) and (f); Article 7, Questions & Answers (a), (c) and (e) of the Western Lines Agreement and Article 27, Sections 2 and 3 of the EP&SW Agreement are cancelled and replaced with the following language:

Section 1:

(a) Engineers will be called as near as practical one and one-half (1½) hours prior to the time assignments assume duty, except at locations where local agreements provide otherwise. The caller will record the time the engineer received the call."

Prior to the modification of the calling rule as identified in the 1995 Agreement said rule existed as Section 1 of Article 30. The rule requires that engineers be given a 1 ½ hour call prior to the time their assignments are to assume duty. I met you in Tucson, Arizona on January 30, 2007 and so advised you of the requirements and history of the Calling Rule. Additionally, I have furnished you a copy of NRAB Award No. 23924 regarding the 1 ½ hour call. Herein I am furnishing you a copy of a letter dated November 12, 1990 from former General Chairman E.L. Pruitt to Mr. W.R. Kearney, Manager-Labor Relations Southern Pacific Transportation Company. That letter from General Chairman Pruitt also contained a copy of Special Adjustment Board No. 18

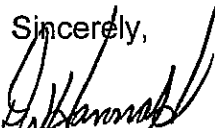
regarding the same Calling Rule. The requirements of the rule for calling engineers have not been changed from General Chairman Pruitt's letter to date!

I have been advised that you and/or your outlying managers have made unilateral attempts to change the collective bargaining agreement, without benefit of Notice, as required by the Act, wherein you have issued instructions for engineers to "show up without call on their rest" or as received today, a new set of instructions to "Please call CMS to be put on duty."

The Agreement is clear. Engineers will be given a call 1 ½ hours prior to the time assignments assume duty. You must instruct your managers and your CMS dispatchers to comply with the collective bargaining agreement, and you are well aware you cannot circumvent existing agreements with a managerial notice or some trumpeted up local policy.

I am hereby notifying all Local Chairmen of this Committee of the agreement provisions; and they so should notify their engineers. Failing an INDIVIDUAL will show arrangement made with each engineer on each assignment CMS MUST call engineers for their assignments 1 ½ hours prior to the time the assignment assumes duty.

If you wish to discuss this with me further I suggest you arrange to meet with me, and your superiors, at a scheduled meeting in Ontario, California on November 12, 13, & 14, 2007. The agreement is clear and remains in full force and effect until such time we mutually agree otherwise.

Sincerely,

D.W. Hannah

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 23924
Docket No. 43517
89-1-87-1-S-6328

The First Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
(
(Southern Pacific Transportation Co. (Western Lines)

STATEMENT OF CLAIM:

"Claim of Tucson District Engineer R. F. Kaveloh, Jr., for compensation for time lost account being suspended for fifteen days on February 10, 1986."

FINDINGS:

The First Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As a result of charges dated January 24, 1986, Investigation held on January 30, 1986, and by letter dated February 10, 1986, Claimant, an employee with 13 years of service (10 as an Engineer) was suspended for 15 days for failing to report for duty at the proper designated time and place and absenting himself from duty without proper authority.

On January 23, 1986, Claimant was returned to service after missing approximately five months (represented by the Carrier as a dismissal and reinstatement resulting from proceedings before Special Board of Adjustment 180). Claimant made application and was awarded Relief Yard Job 573. That job was bulletined to work Friday through Tuesday, with Wednesday and Thursday rest days. Although scheduled to work on Friday, January 24, 1986, commencing at 7:20 a.m., Claimant did not report. Claimant asserts that he mistakenly thought that Friday was a rest day for Job 573.

As revealed by the record, Article 30, Section 1-A of the Agreement states:

"Engineers will be called for all service as nearly as practicable one hour and 30 minutes before the time required to report for duty."

hc (2) + Sec # 28
2-8-89

The Carrier's Chief Crew Dispatcher testified that the above provision applies to all regularly assigned yard engineers. In confirmation of that Interpretation, he testified that one of the Carrier's Labor Relations Officers told him several months prior to the incident involved in this case that "unless an engineer so states that they will show, it is required to give them the one hour and thirty minutes call" It is undisputed that Claimant did not make arrangements to report for duty without the benefit of a call. It is further undisputed that Claimant was not given a call 90 minutes before his start time on January 24, 1986.

Under ordinary circumstances we would deny the Claim under Rule 604 which requires employees to report for duty at the designated time and place based upon the undisputed fact that Claimant was obligated to report for work and did not do so in accord with the start time for his bulletined position. But this is not the ordinary circumstance. In accord with Article 30, Section 1-A, at the time the dispute arose the Carrier was required to call Claimant 90 minutes prior to his start time. The Carrier did not do so. Had the Carrier placed the call as contractually required (and as interpreted by the Carrier's Labor Relations Officer), Claimant's misunderstanding of when his rest day was could have been corrected. That clause appears to be a check and balance against the kind of misunderstanding that this record demonstrated.

The quoted contractual language coupled with the Chief Crew Dispatcher's testimony concerning the Interpretation given to him by the Carrier's Labor Relations Officer is sufficient to refute the Carrier's contention that at the time of the incident in this case the practice concerning calls was something different. Further, current practices alluded to in the record are immaterial. By not following the requirement at the time this incident arose for calling Engineers prior to their start time unless the employees indicated otherwise, we must conclude that substantial evidence does not exist in this record to support the Carrier's imposition of discipline.

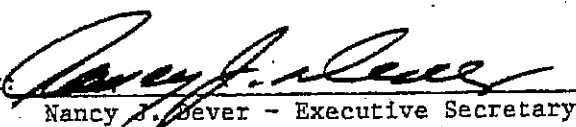
Finally, while the details of the handling on the property are not clear from this record, the parties' submissions indicate that the Claim was handled in a sufficient manner to satisfy the requirements of Circular 1. In the future, the parties are advised to carefully follow Circular 1.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 6th day of February 1989.

FIRST DIVISION
NATIONAL RAILROAD ADJUSTMENT BOARD
January 29, 1988
With Referee Edwin H. Benn

10:00 A.M.

Parties: Brotherhood of Locomotive Engineers
Southern Pacific Transportation Company

DOCKET

43517

REPRESENTATION:

For Carrier:

For Employes:

Leonard A. Foster, General Chairman, BLE

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

38750 PASEO PADRE PKWY., SUITE A-7 • FREMONT, CA 94536 • PHONE: (415) 791-8881 • FAX: (415) 791-1052

E. L. PRUITT
Chairman

November 12, 1990

Mr. W. R. Kearney
Manager-Labor Relations
Southern Pacific Trans. Co.
One Market Plaza
San Francisco, CA 94105

Org. File E-0433-30-1

Dear Sir:

Refers to our telephone conversation this date, dealing with the past practice of engineers reporting for duty on their assignments without benefit of a call.

Your position that engineers must report for their assignments without benefit of a call for duty is wholly erroneous and is not acceptable to the Committee.

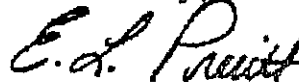
To the contrary, over many years of past practice the majority of engineers who are assigned to regular assignments with a bulletined on duty time (yard jobs, local freight runs, etc.) have elected to arrange with the crew dispatcher to report for duty on their assignments without benefit of a formal call for duty.

The provisions of Sections 1(a) and 1(b), Article 30 of the agreement covering engineers are clear and unambiguous, and there is no revision or modification thereof in existence which would support your erroneous assertion that such engineers must report for duty without benefit of a call in each instance.

In this connection your attention is directed to the Statement of Facts in the attached Decision 3150 by Special Adjustment Board No. 18 which shows that it is a convenience for both the engineer and dispatcher when the engineer voluntarily arranges to report for duty without benefit of a call.

Will you please advise your concurrence herein.

Yours truly,



Enc.

ELP/h

bc - LC#692 w/enc.

Orig. file E-20312-12-1(c)1230-1(f)
Org. file F-13832-28-20
Co. file REF 61-2408

DECISION NO. 3150
CASE NO. 874-BLWKE (Engrs-Frmn)

DECISION NO. 3150
CASE NO. 874-BLWKE (Engrs-Frmn)

SPECIAL ADJUSTMENT BOARD NO. 18
(Engine Service Panel)

-2-

PARTIES TO DISPUTE: Brotherhood of Locomotive Firemen and Enginemen
Southern Pacific Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of Engineer J. A. Berndt, Western District,
Western Division, for a two-hour call and release, September 1, 1956,
and the earnings he would have made had he been properly notified of
the cancellation of Yard Job 679.

For a two-hour call and release, pointing out that if claimant is to be
compensated for the earnings he would have made on the date in question
that it would be considered as though he had worked that day on the job;
therefore the additional amount claimed for a two-hour call and release
would be improper. There would be considerable logic and reason to be
found in support of carrier in this respect were it not for the settle-
ments produced by petitioner which we think support its position.

STATEMENT OF FACTS: On August 31, 1956, Engineer Berndt, assigned to
Oakland Yard Job 679, hours of assignment 7:00 AM to 3:00 PM, reported,
pursuant to an arrangement he worked out with Company forces, without
benefit of a call and performed service on the assignment during
assigned hours.

The claim is sustained.

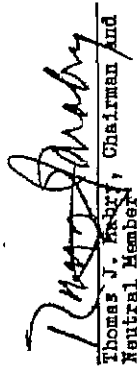
Job 679, on completion of service on August 31, 1956,
was abolished, but no Company representative notified Engineer Berndt
of this fact.

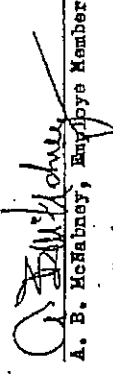
In conformity with the arrangement he had made, Engineer
Berndt reported for duty on Job 679 at 7:00 AM, September 1, 1956, at
which time he was informed the job had been abolished on the preceding
date.

Engineer Berndt displaced Engineer E. Shelton from
Oakland Yard Job 811, hours of assignment 7:00 AM to 3:00 PM, and
performed first service thereon September 4, 1956.

DECISION: We hold this claim to be valid. We have here a clear
dispute as to the controlling fact, which goes to the question of
whether or not carrier made a reasonable effort to contact claimant
by phone to advise him of the abolishment of said Job 679; and carrier
having failed to move in an effort to reconcile with the Local
Chairman the facts in dispute as the agreement requires, we will
accept the facts relied upon by petitioner as being undisputed. These
facts will support petitioner's contention that carrier did not make
proper effort to contact claimant and advise him of such job abolish-
ment. Carrier argues that there was not such a dispute in the facts
as would require carrier to move for a meeting with claimant's Local
Chairman to attempt a reconciliation of the differences between the
parties, but we are unable to adopt this view.

Carrier vigorously opposes allowance of the claim which
involves both the earnings claimant would have made and compensation


Thomas J. Kirby, Chairman and
Neutral Member


A. B. McFarney, Employee Member


P. G. Vaughan, Carrier Member

San Francisco, California
July 11, 1960.