

NATIONAL RAILROAD ADJUSTMENT BOARD
First Division

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS
BROTHERHOOD OF RAILROAD TRAINMEN
THE CHESAPEAKE AND OHIO RAILWAY COMPANY

STATEMENT OF CLAIM.—Claim for continuous time for Conductor J. F. Spencer and Brakemen V. Hartleroad and H. McCarthy, September 1, 1932, Peru to Union Stock Yards and return.

JOINT STATEMENT OF FACTS.—Sept. 1st, 1932, an extra freight train was run, Peru to Union Stock Yards, Chicago. A pool crew, consisting of Conductor Spencer and two brakemen were used on this extra train, and on arrival at Union Stock Yards were relieved and later called and made trip in through freight service, Union Stock Yards to Peru. Crew paid for each run separate.

POSITION OF EMPLOYES.—Our position is that Conductor J. F. Spencer and Brakemen J. F. Hartleroad and H. McCarthy were assigned to pool freight service between Peru and Stony Island, Stony Island being between Peru and the Union Stock Yards.

On September 1, 1932, this crew was called at Peru and run through Stony Island, their away from home terminal, to Union Stock Yards, and relieved before 14 hours.

Rule 73 (a) and (b) of the Conductors and Trainmen's Agreement reads:

"(a) Employes in train service will not be tied up unless it is apparent that the trip cannot be completed within the lawful time, and not then until after the expiration of fourteen (14) hours on duty under the Federal Law, or within two (2) hours of the time limit provided by State Law, if State Law governs.

"(b) If employes in train service are tied up in a less number of hours than provided in the preceding paragraph, they shall not be regarded as having been tied up under the law, and will be allowed continuous time from terminal to terminal.

As Union Stock Yards is not a terminal for Conductor Spencer and crew we are asking that they be paid continuous time from the time they were called at Peru, Ind., until relieved on their return trip at Peru, Ind.

Rule 69, as referred to by the Carrier, is not involved in this case.

POSITION OF CARRIER.—Rule 69 reads:

"The Chicago Division will continue to be one consolidated district in freight and passenger service. Through freight crews will be assigned to districts as follows:

- "Cheviot and Boston and return;
- "Cheviot and Peru (manifest trains only);
- "Boston and Peru;
- "Peru and 'H. Y.' Tower;
- "Peru and Chicago.

"This will not be construed to prevent crews in charge of wreck, work, pile driver, ballast, and circus trains being run through terminals when not relieved; or the Company changing the location of terminals."

This rule provides for through freight runs between Peru and Chicago (Union Stock Yards) and Peru and H. Y. Tower (now Stony Island).

During periods when business is good, runs Peru and Chicago (Union Stock Yards and other points) are manned by regularly assigned crews, and a pool of several crews operates between Peru and Stony Island. Occasionally an extra or second section of a scheduled train between Peru and Chicago is run and this requires an additional crew. As a general practice, the pool crew

standing first out is used on this extra or second section, and, of course, take the same regulations as an assigned crew, i. e., relieved at Union Stock Yards, and when reporting at Union Stock Yards start a new day and are paid for a separate trip Stock Yards to Peru.

The claim that a through freight crew running a through freight train from its home terminal to an away-from-home terminal on its seniority district must be run through the away-from-home terminal and paid continuous time until returned to its home terminal is without precedent.

For a long number of years before and after the C. & O. acquired the C., C. & L., now known as the Chicago Division, crews in freight service operated between Peru and H. Y. Tower (later changed to Stony Island) and Peru through H. Y. Tower into terminals in Chicago, and this is the first contention that has come up as to what crew or men should be used on these extra runs.

I am sure had an extra crew been called for this run, the first out pool crew would have presented a claim for a run-around, and had an extra crew been called, the committee would not take the position this extra crew should run through Union Stock Yards, the away-from-home terminal, on continuous time until returned to Peru.

There is no rule prohibiting the use of pool crews on runs in freight service authorized by agreement, on their seniority territory, so long as they are used first-in, first-out in that service.

The committee claimed that Union Stock Yards *is not a terminal* for Conductor Spencer and crew. When this crew is at Peru any member is subject to call for service in freight or passenger service east of Peru, such as Spencer, passenger service, Cincinnati and Hammond; brakemen, as conductor, Peru and Cheviot, etc.

Rule 73 referred to by the employes is not involved in this case.

There is no rule prohibiting the relief of any crew when they arrive at a terminal for the run on which they are performing service.

The request of the committee is for a new rule.

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 employe 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.

The parties to said dispute were given due notice of hearing thereon.

This Division finds the effect of Train Service Board of Adjustment for the Southeastern Region Decision No. 305 is to recognize the use of assigned road crews between Peru and Union Stock Yards but that decision also expressly protected rights of yardmen otherwise. The use of pool crew Stony Island to Stock Yards was therefore not proper in this case.

AWARD

Claim as presented for continuous time for pool freight crew Peru to Union Stock Yards and return to Peru is denied.

By Order of First Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

(Sgd.) T. S. McFARLAND,
Secretary.

Dated at Chicago, Illinois, this 28th day of August 1936.