FORM 1

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

With Referee Robert M. O'Brien

Award 21 807

Docket 39 251

PARTIES TO DISPUTE (Brotherhood of Locomotive Engineers

(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: "Claims of Engineer C. E. Hill, dated March 15 and 23, 1962, for an additional 100 mile day at yard rate, at Russell, Kentucky."

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

The pertinent facts giving rise to the claim are undisputed. On March 15, 1962, Claimant was required to double his train at Fitzpatrick Yard from tracks 25, 26, and 30, picking up 37, 17 and 66 cars respectively, or a total of 120 cars. On March 23, 1962, Claimant was required to double his train from tracks 25, 26 and 30, picking up 30, 28 and 74 cars respectively, or a total of 132 cars. The parties are agreed that no two tracks would have held the entire train on either of the above mentioned dates.

At issue for the Board is the application of Rule 14, Engineer's Agreement, quoted below, to the requirement compelling Claimant to pick up his train out of three tracks at the initial terminal where switch engines are employed.

> "Rule 14. Through freight trains will not be required to do switching at initial terminal where switch engine is located, except to set off cars from two places in train or pick up cars from two tracks."

Petitioner relies on the clear, unambiguous language of Rule 14, contending that when Claimant was required to pick up from more than two tracks it constituted switching service beyond that allowed under Rule 14, and thus compensable as claimed.

Carrier denies the application of Rule 14 to the present factual situation, asserting that Rule 14 is an exception to the general principle that road crews are prohibited from picking up from more than the minimum number of tracks which would have held their train. It was written, Carrier claims, not to restrict the use of road crews in picking up their train from the minimum number of tracks but for the explicit purpose of permitting through freight crews, at initial terminals where yard crews are employed, to pick up from two tracks when one track would have held the pick up.

We are of the opinion that Rule 14 is clear, concise, and unambiguous as written and, as such, we have no alternative except to apply it as written. If we should add to such clear collective agreements exceptions and conditions not bargained for we would transform our function from contract interpretation to rules making, thereby abrogating our statutory mandate. If Carrier desires to limit the applicability of Rule 14 as aforementioned, then it must do so at the bargaining table, for this Board is without jurisdiction to so do.

Until such time, the language "pick up cars from two tracks" connotes the maximum number of tracks from which road crews can pick up cars at initial terminals.

AWARD: Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

DATED AT CHICAGO, ILLINOIS
THIS 7th DAY OF January 1972.

ATTEST: E. A. Killeen
Executive Secretary