

UNITED TRANSPORTATION UNION (E)

AWARD NO. 14

v.

CASE NO. 12.64

DELAWARE AND HUDSON RAILWAY CO..

STATEMENT OF CLAIM:

Claim for one day's pay at hostler's rate for the following firemen at Fort Edward on dates listed as follows: Fireman W. Winters on December 15, 1963, required to start engine 4111 and remove from roundhouse, after completing his tour of duty in yard service. This unit was not assigned to him. December 22, 1963 required to start engine 4092 and remove from roundhouse, after completing tour of duty in yard service. This unit was not assigned to him. January 5, 1964 required to start engine 4088 and remove from roundhouse, after completing tour of duty in yard service. This unit was not assigned to him.

Fireman R. Adams same duties on February 11, 12 and 13, 1964.  
 Fireman T. Turner same duties on December 10 and 11, 1963.  
 Fireman L. Tracey same duties on December 7, 1963.

Fireman M. Dannehy same duties on February 8 and 9, 1964.  
 Fireman C. Barlow same duties on December 17, 19, 20, 21 and 28, 1963; January 3, 7, 8 and 10, 1964.

FINDINGS:

These claims are based on the premise that the Claimants herein were required, after completing their tours of duty as yardmen, to perform hostler work. The Organization contends that Carrier violated the agreement by requiring the Claimants at the conclusion of their yardwork at Fort Edward to take locomotives in and out of the roundhouse. In one instance, one of the Claimants was required to do such work with a locomotive that was not assigned to him.

Carrier asserts that the Claimants, other than Claimant Winters (who worked with a locomotive not assigned to him), "merely placed their locomotives on the tie-up track inside the roundhouse before they registered off duty." Carrier further asserts that: 1) Under the provisions of Article 7 and Article 9, firemen in yard service shall have a designated point for going on and off duty (Article 7), and that firemen shall be paid from the time they are required to report for duty and end when the locomotive is delivered at the point designated; and 2) Claimants, in operating their locomotives from the dispatch track in the roundhouse at the beginning of their tour of duty and operating their locomotives to the tie-up track in the roundhouse at the close of their tour, were not performing "additional service" but merely fulfilling the duties of their assignment.

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An examination of the record reveals that there is no indication that Carrier has designated the point for going off duty. Moreover, there is nothing in the record that indicates, by bulletin or otherwise, that at Fort Edward the engine crew are required to go into the enginehouse to commence their work, i.e. go inside the enginehouse to get their locomotives.

As a consequence, Article 7 is not applicable, and, under the particular circumstances of this dispute, the claims must be sustained.

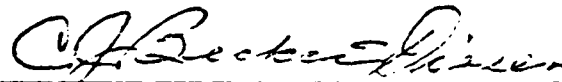
Finally, with respect to Carrier's defense of "laches", the Board finds that it is without merit. The doctrine of "laches" had its genesis in the courts of equity and evolved as one of the many remedies created by the equity chancellors as a means of rectifying the "action at law" deficiencies. It was and is a unique and seldom applied concept utilized only in extraordinary circumstances. This record does not warrant the application of the doctrine of "laches".

AWARD

Claim sustained. Carrier is directed to comply within 30 days from the date of this award.

  
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N. H. Zunas, Neutral Member

  
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G. H. Bunde, Employee Member

  
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C. J. Becker, Carrier Member

Albany, New York  
July 30, 1974