

PUBLIC LAW BOARD NO. 7265

BROTHERHOOD OF LOCOMOTIVE)	
ENGINEERS & TRAINMEN)	
)	CASE NO. 5
v.)	AWARD NO. 5
)	
CSX TRANSPORTATION, INC.)	

QUESTION AT ISSUE:

“Question 5. Article 16 – Personal Leave Days

Does the language of Paragraph C, Section 6, “If an engineer resigns, retires, dies, is disabled or is dismissed from service, the number of PLD’s in his account (including those earned in the calendar year that the Engineer leaves service which were to be taken in the subsequent year) will be payable to the Engineer or his estate as soon as practicable, subject to law”, apply to Engineers who left service in calendar year 2007; as the Agreement was not effective until April 25, 2007?”

FINDINGS AND OPINION:

Public Law Board No. 7265, upon the whole record and all the evidence, finds that the parties involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended. Parties to said dispute were given due notice of hearing thereon.

The above Question at Issue has been raised and handled by the BLET and CSXT in accordance with Article 32 – Disputes Resolution Committee, of the April 25, 2007 BLET/CSXT Single System Agreement (SSA). Having reached impasse, the Organization and Carrier referred this matter to the Board, pursuant to Article 32, paragraph (D), and it is now properly before the Board for final and binding adjudication.

On April 25, 2007, the Carrier and Organization (Eastern Lines, Northern Lines and Western Lines) entered into a Single System Agreement (SSA) on a voluntary basis. The parties’ mandate to negotiate a comprehensive system-wide collective bargaining agreement applicable to employees represented by the BLE is found in Article XX – Single Agreement Negotiations, of the CSXT Labor

Agreement 1-014-96, which affirmed the parties' commitment to "work diligently to voluntarily reach a single agreement."

In 2007, the Organization and Carrier consummated a BLET/CSXT System Agreement covering engineers employed on the Carrier's Eastern, Western and Northern Lines. According to the record, the parties' negotiated a change in the existing rule covering Personal Leave in order to compensate engineers leaving service for the personal leave days they earned and would have taken in the following year. Article 16 - Personal Leave, paragraph (C)(6) of the BLET/CSXT Single System Agreement (SSA), effective April 25, 2007, states:

6. If an engineer resigns, retires, dies, is disabled or is dismissed from service, the number of PLD's in his account (including those earned in the calendar year that the Engineer leaves service which were to be taken in the subsequent year) will be payable to the Engineer or his estate as soon as practicable, subject to law.

The Organization contends that the above clear and precise language requires the Carrier to compensate engineers leaving the service in the calendar year of 2007 for the personal leave days earned and remaining in their accounts. According to the Organization, Article 16 contains no provision which rendered the engineers who left in 2007 ineligible for the PLD payments. Indeed, the engineers who left in 2007 without their PLD payments were accorded compensation for their unused vacation days.

Thus, according to the Organization, in light of the exact language of Article 16, paragraph (C)(6), the Board has ample basis for finding that the engineers who left the service in the calendar year of 2007 must be paid their personal days. The Board must now direct the Carrier to make the payments "as soon as practicable, subject to law."

The Carrier disagrees with the Organization's position as to the effective date of Article 16(C)(6) of the SSA. According to the Carrier, because the rule was not in existence for the entire calendar year of 2007, logically, its full implementation could not occur until 2008.

Moreover, compensating the engineers who left the service in 2007 in the manner prescribed by the new provision would result in windfall compensation not supported by the agreement rule. Thus, the Carrier strongly avers that, on this record, the Board must uphold the Carrier's position by answering the above Question at Issue in the negative.

The Board has carefully studied the well-articulated arguments and supporting documentation submitted by the parties in their pre-hearing briefs. We have also re-examined the documentation and positions in light of the cogent arguments made during the parties' oral presentations at the arbitration hearing.

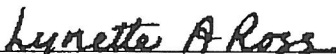
We find that the Organization's position in the instant dispute must be sustained. The language in Article 16(C)(6) is clear. There is no wording in Article 16 or the agreed-upon Q & A's which justifies denying the engineers who left service in the calendar year 2007 their payments for the PLD's remaining in their accounts. There is no language stating that Article 16(C)(6)'s implementation would be put off until 2008.

Indeed, the language contained in Article 16(C)(6) is unambiguous, and the plain meaning of the rule must be enforced. See, Third Division Award 35715 (Referee Benn); First Division Award 21807 (Referee O'Brien); and First Division Award 24883 (Referee Eischen).

Turning to the Question at Issue presently before us, the Board rules that the language of Article 16(C)(6) of the ratified Agreement requires that all engineers, or their estates, who were denied payment for their earned personal leave days when they departed from the service in the calendar year of 2007 shall be paid as the Organization requests. The Carrier shall arrange to make the payments as soon as practicable, but not later than 30 days from the effective date of this Award.

AWARD:

The instant Question at Issue is answered in the Organization's favor. The Carrier is ordered to comply with this Award within 30 days of its date.


Lynette A. Ross, Neutral Member


Rick Hiel, Director-Labor Relations
Carrier Member


Dennis Pierce, Vice President-BLET
Organization Member

Dated: 1-29-09