

To: All Concerned

From: John Hancock

Subject: Educational piece on protected working conditions and the Railway Labor Act

Attached is correspondence to LC Fritz concerning Title 45, Section 152, Seventh of the Railway Labor Act that deals with protected working conditions. It is important to understand working conditions as they affect us on both sides. If a provision in the Agreement is unclear, and a condition exists over a period of time, such can be held that the practice is the intent of the parties with respect to application of the Agreement. This is why it is extremely important to challenge immediately a practice that we believe is not the intent of the Agreement.

On another vein, we can use practices in our favor; the example cited below is "how" we started getting paid to take rules exams. I used the example to explain to LC Fritz the difference between a protected working condition (as defined in the RLA) and management's prerogative to operate its business.

We used the RLA to keep getting paid to attend rules classes and exams. This is your Union at work.

From: John Hancock
Sent: Thursday, December 09, 2010 8:34 AM
To: 'UTU Local 1504'
Cc: Tony Larsen; John Whitaker
Subject: RE: OUC Agreement:

Brother Ryan,

This explanation and opinion is to the enforcement of the 9 hour 30 minute call and relief practice on the OUC trains.

Title 45, Section 152, Seventh of the Railway Labor Act, as amended, protects wages, rules and working conditions. The railroad cannot change any of these three items except in accordance with Title 45, Section 156 of the RLA (negotiations). A working condition is just as strong as the written word in the contract under certain conditions. Simply, CSXT cannot change a working condition.

The question turns to the definition of a "working condition." Working conditions and management's right to operate its business are two different issues. The distinction has been arbitrated over the years, and the application is as follows:

1. Working conditions, when they are of monetary and intrinsic value to the employee become binding upon the parties, and they cannot be changed except in accordance with the RLA. A working condition that is of intrinsic and monetary value to the employee become a protect working condition, as defined by the RLA.
2. Working conditions that deal with the operation of trains are considered operating conditions are not considered working conditions. Operating conditions can be changed "at will" by management.

Here is an example:

Years ago, CSXT started paying us to attend a rules exam (we previously did it for free – we were required to attend a rules exam every six months, and they did not pay us). CSXT paid employees to attend the rules exam for three years. Later, they decided to stop paying employees to take the rules exam, but demanded that the employees attend the rules class (CSX returned to the former status quo). The UTU (this General Committee) asserted that when CSXT paid the employees to attend the rules exam over an extended period of time (3 years), this action became a protected working condition, thus CSXT could not return to the former practice.

CSXT disagreed.

We arbitrated that issue and Public Law Board 4975, Award No. 80 upheld our position. Now, you know why the employees get paid to take a rules exam on CSXT. It was the Union, and this General Committee in particular, that got this payment accomplished.

The opposite example is what you have posed to me; relieving a crew 9 hours and 30 minutes after they have been on duty. When CSCXT operates the crew for 12 hours, then calls a relief, you are correct in that this depletes manpower, causes extended rest, etc. This management decision is best described as dumb and stupid management. Regrettably, the Rail Labor Act does not give us authority to overturn dumb management decisions.

The intelligent and smart management decision is to do what you suggest. In that vein, I suggest that you contact Don Jones and discuss the issue with him.

Fraternally,

John H

From: UTU Local 1504 [mailto:thefritzfiles@yahoo.com]

Sent: Wednesday, December 08, 2010 12:54 PM

To: John Hancock

Cc: Tony Larsen

Subject: RE: OUC Agreement:

John,

I couldn't find it in the agreement either but it has been past practice for the past 20 years that OUC relief crews would be called two and a half hours prior to the expiration of the inbound crew (9hrs 30min on duty) so the inbound crew could get back to Sanford before expiring the hours of service.

Other than past practice CSX should make a good faith effort in order to relieve crews before they expire their hours of service. This avoids unnecessary limbo time and extended mandatory rest before these crews can return to work. Part of the Sanford manpower issue are crews that are not rested. These crews are typically on duty for over 13 hours therefore they need at least 13 hours of rest before they are available to the company.

Thanks,

Ryan Fritz
UTU Local 1504
Sanford, Florida
(407) 312-3274