

UTU Release - Availability Standards Update

UTU General Chairpersons John Lesniewski, John Hancock, Jim Townsend, Johnny Willis and Randy Pullen, along with Vice General Chairperson Yvonne Hayes and UTU Vice President John Previsich, met late Monday, August 16, 2010, with Senior CSXT Officers to air out differences with respect to recent modifications unilaterally made by CSX to the availability standards in their Simplified Availability Policy pursuant to System Notice No. 108 dated July 30, 2010. It was the second meeting of this type for several of the General Chairpersons, but this meeting was arranged by UTU International President Mike Futhey and the outcome this time was much more productive, if not fruitful.

For over an hour the General Chairpersons debated the unreasonable rigidity of the new availability standards with CSXT VP & Chief Transportation Officer C. M. Sanborn, VP Labor Relations S. E. Crable, VP Network Operations M. D. Smith, AVP Crew Management T. J. Flanley, AVP Labor Relations D. W. Ingoldsby and Director Labor Relations M. Becker. Armed in many cases with stories and situations presented by their membership, the General Chairpersons argued that a literal interpretation of the newly published standards penalizes their hard working employees, our members, through its generic and what appears to be inflexible terminology. As such, the General Chairpersons argued, it denies an employee their contractual right to "reasonable layoff privileges" and, on some properties, also their contractual entitlement to hold their displacement for a specified period of time.

For their part, CSXT acknowledged that it is, and never was, their intent to penalize the 95% of their employees who protect the service consistently; and they fully intend to abide by our contractual agreements regarding "reasonable layoff privileges" and displacement time (where applicable). At the same time, however, they remain steadfast in their intolerance towards those that characteristically choose to make their employment with CSXT less than full time; and they have a genuine desire that their treatment of such employees will be consistent.

In the end, while the Carrier stopped short of revoking their revised standards, they did recognize that the rigidity of the language within the standards requires further clarification to express their intent. The published standards provide that opportunity wherein they state that:

"Employees who are unavailable for any non-compensated reason (other than rest days and time off mandated by the Hours of Service Act, as amended by the Rail Safety Improvement Act) on 2 or more days in a rolling 4-week period ***will be subject to review.***"

The Carrier's application of that review process, as opposed to mandating discipline, will ultimately determine whether the Carrier is allowing the "reasonable layoff privileges" stipulated in our Agreements or not. However the ambiguity of this

term leaves far too much room for discretionary abuse. Consequently, in an effort to avoid unwarranted discipline and the arbitration of individual cases leaving a trail of innocent blood as a legacy of the unintended application of their policy, CSXT committed on Monday to working with the UTU General Chairpersons to formulate Q&A's regarding their intended application of this discretionary review. It is hopeful these Q&A's will reflect the Carrier's verbally expressed intention to allow reasonable layoff privileges over and above the harsh language of their published policy revisions, as well comply with applicable displacement rules, by describing various situations/conditions and how they will be handled under the review process.

While the devil is in the details, the General Chairpersons are hopeful that the finished Q&A's will bring sanity to what was published as an unreasonably rigid availability policy. We will soon find out. If not, the Q&A's will at least clearly solidify where our differences lie for an arbitrator to later determine whether the Carrier is being "reasonable" in the application of their Availability Policy or not; and whether they are attempted to supersede agreement rules with Company policy. If anyone has situations they would like to be considered as a question within the Q&A's, they are hereby instructed to forward them to their General Chairperson's office as soon as possible for consideration.