

# **Public Law Board No. 4061**

## **Case No. 19**

### **Award No. 19B**

#### **PARTIES TO DISPUTE:**

Norfolk and Western Railway Company

And

United Transportation Union (CET)

#### **STATEMENT OF CLAIM:**

Claim of Moberly Division Conductor C.E. Law, Brakeman W.R. Dunlop and J.C. Hagan, claiming one hundred (100) miles, in addition to other allowances, account not allowed a reasonable length of time for a meal period, as claimed on Time Report No. 12, dated March 7, 1986.

#### **OPINION OF BOARD:**

This Board issued Award No. 19 directing the parties to reconsider the situation here involved and to report the meeting in St. Louis, Mo., on September 18, 1986, the parties told the Board they could reach no agreement, but again outlined their views. The Board members reviewed the facility in question.

The place where employees go on and off duty and where the Carrier maintains a place to eat, has vending machines, a refrigerator and microwave. We found the sandwich machine inoperative, an adjacent machine half – filled. There is one restaurant, which serves sandwiches, and some other foods until mid-afternoon within a two or three-minute walk. Other facilities, which operate 24-hours, are a four to five-minute drive.

We are told that many employees bring their meals. There is no requirement that they do so, it is their choice, and the cooling and heating units are for their use. However, those called from an Extra Board some distances may not be able to do so and must rely on the existing eating facilities, just as local employees may.

The Carrier contends that in the past the “reasonable” time to eat was abused, and this is the reason for the restriction to 30 minutes. The Carrier relies on an award which classifies the employees in question as “akin to that of yard service.”

The operation is around-the-clock. Obviously during certain shifts there should be no problem in meeting a 30-minute restriction. These would be the shifts whose meal periods come when the nearby restaurant offers meals.

If the Carrier assures the vending machines are operating and appropriately filled, that change is available for the operation, it is presumed that the 30-minute restriction can be complied with during all shifts.

However, during those times when the nearby restaurant is not fully operational for serving meals, or the Carrier facility inadequate, we believe it might require more than 30 minutes for employees to go to other nearby facilities for meals, perhaps as much as an additional 15 minutes.

The Organization expressed apprehension that employees would face disciplinary action should they be a minute or so late. These questions, under the above outlined situations must be evaluated on individual circumstances. The Carrier may bring charges in any incident, however, their successful prosecution would hinge on the judgement of the officials considering the flexibility allowed herein, and, ultimately, perhaps other Boards. It is unlikely that either exceedingly close calls by the Carrier, or abuse or obstruction by the employees would be viewed kindly.

The employees are held to the requirement that the needs of the service be met while they are allowed what we believe to be reasonable access to adequate meals. There is no requirement that "full service" restaurants be available. This award concerns itself with a specific place and circumstance and does not pretend to cover others.

**FINDINGS:**

As outlined in Opinion of Board.

**AWARD:**

Claim for additional pay denied; as outlined in Opinion of Board.

Carrier is directed to make this Award effective forthwith.

Dated at St. Louis, Mo., this 18<sup>th</sup> day of September 1986.

**John B. Criswell, Neutral Member**

**L.W. Swert, Employee Member**

**E.M. Martin, Carrier Member**