

PUBLIC LAW BOARD NO. 7433

Case No. 6
Award No. 6

United Transportation Union)
)
 vs) PARTIES TO DISPUTE
)
 Burlington Northern Santa Fe Railway Company)

STATEMENT OF CLAIM

Bakersfield Primary Recall Issue.

FINDINGS

This Board finds the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction over the dispute involved herein. The parties to said dispute were given due and proper notice of hearing thereon.

This case deals with recalling so-called "Primary Recall" employees to Bakersfield. UTU is of the opinion that there are two former Santa Fe prior-rights seniority districts at Bakersfield.

On January 1, 2001 the so-called "Flowback" agreement became effective where the former Santa Fe collective bargaining agreements had application. The Flowback agreement contains a "Primary Recall" provision, as follows:

Due to the carrier's need to maintain a stable workforce at certain locations, BNSF may hire ground service employees, who establish seniority after the effective date of this Agreement, as "primary recall" employees at certain locations. These "primary recall" employees shall be obligated to work jobs protected by the location where hired until a junior "primary-recall" employee becomes available.

Bakersfield is "special" in many ways, not the least of which being that at one time there were two seniority districts applicable to this one location. The yardmen were Valley Seniority District employees while the road service groundmen held seniority on the Old Arizona District. This dispute is based on the Organization's contention that Bakersfield new-hire employees are either "Primary Recall" road service (Old Arizona) or "Primary Recall" yard service (Valley), not both. The Carrier disagrees and points out that the "Primary Recall" language contemplates "location" not "prior-rights" seniority districts, and that these prior-rights seniority districts were consolidated into the Coast Lines Grand District over 25 years ago.

On October 16, 1985 the Coast Lines Grand Seniority District was created by combining all of the pre-existing smaller seniority districts. The Agreement reads as follows:

- 1. Effective 12:01 a.m., October 16, 1985, employes [sic] holding seniority as conductor as of 11:59 p.m., October 15, 1985 on the Coast Lines, except Valley Division Seniority District, will be given a so-called "grand division seniority date" of October 16, 1985 and placed below those conductors appearing on the Valley Division seniority roster. The placement of these conductors on Valley Division Seniority District No.1 roster will be on a dovetail basis and will be in line with their seniority dates on their respective prior rights rosters. Should conductors from different rosters have the same seniority date, the age of the employe [sic] will apply in determining the senior employe [sic] on the new roster, provided this will not result in a change in the relative standing that conductors held on their prior rights district. If the latter should occur, Carrier and Organization will agree on proper standing of the conductors. Conductors on Valley Division Seniority District roster as of 11:59 p.m., October 15, 1985, will be considered prior rights employees.**
- 2. The foregoing handling will be given for each seniority district on the Coast Lines, i.e., each roster will be revised and conductors not appearing on said roster will be added below the current employes [sic] on a dovetail basis in the same manner as the preceding paragraph.**
- 3. Effective 12:01 a.m., October 16, 1985, employes [sic] holding seniority as brakeman as of 11:59 p.m., October 15, 1985 on the Coast Lines, except Valley Division Seniority District, will be given a so-called "grand division seniority date" of October 16, 1985 and placed below those brakemen appearing on the Valley Division seniority roster. The placement of these brakemen on Valley Division Seniority District roster will be on a dovetail basis and will be in line with their seniority dates on their respective prior rights rosters. Should brakemen from different rosters have the same seniority date, the age of the employe [sic] will apply in determining the senior employe [sic] on the new roster, providing this will not result in a change in the relative standing that brakemen held on their prior rights district. If the latter should occur, Carrier and Organization will agree on proper standing of the brakemen. Brakemen on Valley Division Seniority District roster as of 11:59 p.m., October 15, 1985, will be considered prior rights employees.**
- 4. The foregoing handling will be given for each seniority district on the Coast Lines, i.e., each roster will be revised and brakemen not appearing on said roster will be added below the current employes [sic] on a dovetail basis in the same manner as the preceding**

paragraph.

5. **Effective 12:01 a.m., October 16, 1985, employees [sic] holding seniority as yardmen as of 11:59 p.m., October 15, 1985 on the Coast Lines, except Valley Division Seniority District, will be given a so-called "grand division seniority date" of October 16, 1985 and placed below those yardmen appearing on the Valley Division Seniority District roster. The placement of these yardmen on Valley Division Seniority District roster will be on a dovetail basis and will be in line with their seniority dates on their respective prior rights rosters. Should yardmen from different rosters have the same seniority date, the age of the employe [sic] will apply in determining the senior employe [sic] on the new roster, provided this will not result in a change in the relative standing that yardmen held on their prior rights district. If the latter should occur, Carrier and Organization will agree on proper standing of the yardmen. Yardmen on Valley Division Seniority District roster as of 11:59 p.m., October 15, 1985, will be considered prior rights employees.**
6. **The foregoing handling will be given for each seniority district on the Coast Lines, i.e., each roster will be revised and yardmen not appearing on said roster will be added below the current employes [sic] on a dovetail basis in the same manner as the preceding paragraph.**
7. **Employes [sic] hired on or after October 16, 1985 will be identified as non-prior rights employees and will establish a seniority date in the usual manner. This date will be the same for each seniority district; however, the district on which hired will be considered their home district.**

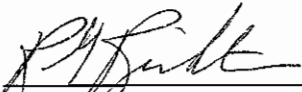
Employees hired on or after October 16, 1985 on the Coast Line District have no prior rights on the old seniority rosters.

In accordance with the "Flowback Agreement" employees hired at Bakersfield, regardless of roadmen or yardmen are subject to recall.

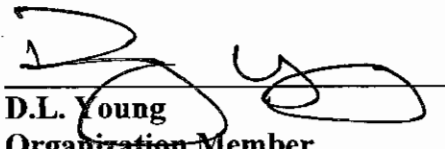
The position of the Organization is not supported by the Agreement.

AWARD

The position of the Carrier is correct.



**R.G. Richter, Chairman
Neutral Member**



**D.L. Young
Organization Member**



**Gene L. Shire
Carrier Member**

Dated 4/20/11