

united transportation union
Burlington Northern & Santa Fe Railway General Committee of Adjustment GO-245



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S.M. Waller, 4th Vice Chairman
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To: Local Chairmen, GO-245

Re: Flowback Dispute - Kansas City Consolidated Yards

We are pleased to advise that this office recently received a sustaining arbitral ruling with respect to the implementation of the Santa Fe Flowback Agreement within the Kansas City Consolidated Yards. In other words, the Neutral determined that the implementation of this agreement within the yards was, and remains, a violation of Article 50 of the consolidated schedule.

Many of you are already aware that we have been embroiled in a dispute since 2001 within the Kansas City Consolidated Yards regarding the implementation of flowback without the concurrence of this committee. For those of you that are new to this committee, I will briefly explain.

Following the merger of BN and ATSF in 1995, notice was served by the Carrier to consolidate yard operations at Kansas City. After considerable negotiations, the consolidation was completed in 1998, and thereafter governed by the terms of the new Kansas City Consolidated Schedule. Among these work rules, Article 50 provided that the consolidated yards fell under the joint jurisdiction of both this committee, GO-245, and the former ATSF committee, GO-009.

Subsequent to consolidation, the former ATSF committees, with the assistance of then-UTU Vice President P.C. Thompson, began negotiating a flowback agreement with the Carrier and the BLE. While within their rights to negotiate such on property under their sole jurisdiction, it was later learned that it was their intent to also implement the agreement in the consolidated yards at Kansas City without the concurrence of this committee. It was at this time our office took exception.

In January, 2001, the Flowback Agreement was implemented on the former ATSF properties, to include the consolidated yards. Since we were not in concurrence with this implementation, this committee requested that this jurisdictional dispute be submitted to arbitration, but was declined by GO-009. This committee then turned to the courts and eventually received a judgement in our favor several years later that compelled GO-009 to participate in arbitration of the matter.

Prior to initiating the arbitration process, this committee approached GO-009 with a possible settlement that allowed the continuation of flowback within the yards but made any employee in ground service by virtue of that agreement ineligible to collect productivity fund shares. Unfortunately, after the settlement was ratified, three of the affected employees working within the yards appealed our actions. Upon submitting the question to the UTU International, now-

President P.C. Thompson determined that our settlement could possibly be a violation of duty of fair representation and voided the settlement. At this point, we were left with no choice but to return to court and request that our case be reinstated. Once this was done, we established a Special Board of Adjustment (1155) and selected an arbitrator.

In July, 2007, the case was finally heard in Philadelphia, PA before Neutral Joan Parker. Representing our committee was myself and Counsel John O'B. Clark. Arguing against us were G.L. Shire - General Director BNSF Labor Relations, P.C. Thompson - UTU President, C.J. Miller III - UTU General Counsel, and J.A. Huston - General Chairman GO-009.

In August, 2007, Ms. Parker rendered her decision in our favor.

While we were incredibly pleased with the award, no good deed ever goes unpunished. In a letter dated September 7, 2007, BNSF advised that it was not going to remove the Flowback Agreement from the consolidated yards, but was going to modify it to, in their opinion, comply with the award. This office responded in correspondence dated September 19, 2007, that we were not in agreement with the new application of flowback and that the Flowback Agreement continues to affect those working at this location.

That said, we have since met once with BNSF, GO-009 and BLET for the purpose of discussing a possible settlement. While continuing to meet with these parties, we have returned to the court and are seeking enforcement of the award. Concurrently, the BLET has filed suit in Denver, CO seeking to have the award overturned on the basis that they were not granted full-party status.

Regardless of the eventual outcome, on behalf of this office and Local 5 at Kansas City, we would like to extend our gratitude to the entire committee for their commitment in continuing to battle this breach of our jurisdiction. Be assured that we will keep you updated with any new developments in this matter.

For your files, we are enclosing a copy of the award, Mr. Shire's letter dated September 7, 2007, and my response dated September 19, 2007. If you have any questions, please feel free to contact this office.

Fraternally,



R.S. Knutson
General Chairman

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