

ABA Railway & Airline Labor Law Committee Meeting March 11 & 12, 1999

Adjustment Board Awards: Legal Issues Presented By Noncompliance

Margaret H. Spurlin
Paul, Hastings, Janofsky & Walker, LLP
(202) 508-9500

I. Mechanism for enforcement of Adjustment Board Awards is set forth in RLA Section 3 First (p). Sections (m) through (r), red-lined to show 1966 changes, and excerpt from 1966 legislative history, are attached.

- Findings and order of Adjustment Board are "conclusive on the parties."
- Petitioners who are successful get costs and attorney's fees.
- Courts enforce Board orders by any appropriate method, including mandamus.
- Adjustment Board order may be set aside only for (1) failure to comply with RLA requirements, (2) exceeding Board's jurisdiction, or (3) fraud or corruption.

II. Court has no authority to enforce award if it is not clear on its face.

In case of ambiguity, courts generally remand to Board for clarification.
Power to remand is not specified in § 3, First (p); inferred from § 3, First (q).

E.g. BMW v. Burlington N. Ry., 24 F.2d 937, 939 (7th Cir. 1994) (whether award applied to one line or whole system); BRC v. Atchison, T.& S.F. Ry., 956 F.2d 156, 160 (7th Cir. 1992) (duty to mitigate); IAM v. Southern P. T. Co., 626 F.2d 715 (9th Cir. 1980) (whether award applied only to named grievants or to similarly situated employees); Sabo v. Metro-North C. R.R., 156 LRRM 2665 (S.D.N.Y. 1997) (whether remedy extended for months or several years).

Alternatively, court may stay to permit a party to petition the Board for clarification of its award under § 3, First (m). ATD v. Duluth, M. & I.R. Ry., 866 F.Supp. 420 (D. Minn. 1994).

Court may simply dismiss, finding that compliance issues present a separate minor dispute. ALPA v. Trans World Airlines, Inc., 966 F.Supp. 870 (E.D. Mo. 1997) (whether change in scheduling calculations that TWA proposed to implement an award actually complies with the award and labor contract is a minor dispute)

III. No self-help to enforce Adjustment Board Awards. Statutory procedures in § 3, First (m) - (r) are exclusive.

BLE v. Louisville & N. R.R., 373 U.S. 33 (1963) (attached). Carrier may obtain injunction against strike which union called to enforce union's interpretation of Adjustment Board's monetary award in favor of employee.

CSX Transportation, Inc. v. UTU, 879 F.2d 990, 1003-04 (2d Cir. 1989), cert. denied, 493 U.S. 1020 (1990) (attached). Rejecting union argument that, after carrier lost in arbitration, dispute was converted from "minor" to "major"; strike injunction against union remains in place.