FOR RELEASE
09/03/1997 (Wednesday)
No. 97-72

Contact: Janie Sheng (202) 245-0221

FedRelay 1 (800) 877-8339
www.stb.gov

SURFACE TRANSPORTATION BOARD DENIES APPEALS TO ARBITRATORS' DECISIONS ON EMPLOYEES' BEHALF IN 2 SEPARATE CASES INVOLVING "CSX" AND "ATLANTA & ST. ANDREWS BAY" RAILROADS

FOR RELEASE: ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ Contact: Dennis Watson
Wednesday, September 3, 1997 ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ (202) 565-1596
No. 97-72 ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½ ï¿½TDD (202) 565-1695

SURFACE TRANSPORTATION BOARD
DENIES APPEALS TO ARBITRATORS' DECISIONS
ON EMPLOYEES' BEHALF IN 2 SEPARATE CASES INVOLVING
"CSX" AND "ATLANTA & ST. ANDREWS BAY" RAILROADS

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has denied an appeal by CSX Transportation, Inc. (CSX) of an arbitrator's decision holding that a furloughed railroad employee Represented by the Transportation Communications International Union. receiving a dismissal allowance is not required, in view of the applicable collective bargaining agreement (CBA), to accept a recall to work at a new location requiring the employee to change his residence. The Board also has declined, based on its narrow scope of review, to consider an Atlanta & St. Andrews Bay Railroad Company (ASAB) appeal of an arbitration board's decision finding that 12 former railroad maintenance-of-way employees Represented by the Brotherhood of Maintenance of Way Employees. are entitled to separation allowances.

In the first case, entitled *CSX Corporation--Control--Chessie System, Inc., and Seaboard Coast Line Industries, Inc. (Arbitration Review)*, STB Finance Docket No. 28905 (Sub-No. 28), the Board accepted review and affirmed a July 1996 decision by an arbitration panel finding that, absent a provision permitting involuntary transfer under an existing CBA, a dismissed employee does not forfeit his or her dismissal allowances if the employee refuses to accept a recall to work that would require the employee to move his or her residence to another location. The Board based its decision on the grounds that denial of the appeal is required under Article 1, section 6(d) of *New York Dock* A decision issued by the former Interstate Commerce Commission (ICC) in the case entitled *New York Dock Ry.--Control--Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). and under the reasoning of a January 1994 decision by the former ICC In the case entitled *CSX Corporation--Control--Chessie System, Inc. and Seaboard Coast Line Industries, Inc.*, Finance Docket No. 28905 (Sub-No. 25), issued to the public on January 11, 1994..

The Board found that section 6(d) governs the withdrawal of a dismissal allowance once it is initially granted. One provision of that section allows termination of a dismissal allowance for failure to accept a job requiring a change in residence if management may require the employee to move under the existing CBA. A second

provision--the so-called “change of residence” provision--allows termination of the allowance for failure without good cause to accept a comparable position not requiring a change in residence. The Board found that the existing CBA applicable in this case does not permit CSX management to require the employee to relocate, and reiterated that the change of residence provision of section 6(d) precludes CSX management from terminating the employee’s dismissal allowance for failure to relocate to a position that would require a change of residence after the employee had attained the status of a dismissed employee. Thus, where notice of available comparable positions is given to dismissed employees in accordance with a CBA that does not permit management to require employees to change seniority districts, management may not force employees to do so under the threat of loss of entitlement to a dismissal allowance.

In its decision in the second case, entitled *The Bay Line Railroad, L.L.C.--Acquisition and Operation Exemption--Rail Lines of Atlanta & St. Andrews Bay Railroad Company (Arbitration Review)*, STB Finance Docket No. 32435 (Sub-No. 1), the Board declined to accept ASAB’s appeal of an arbitration board’s November 1996 decision finding that 12 former railroad maintenance-of-way employees are entitled to lump-sum separation allowances under the labor protective conditions imposed by the ICC in a March 1995 decision. In the case entitled *The Bay Line Railroad, L.L.C.--Acquisition and Operation Exemption--Rail Lines of Atlanta & St. Andrews Bay Railroad Company*, ICC Finance Docket No. 32435, issued to the public on March 31, 1995. These conditions were negotiated and agreed to by the rail carrier and all but one of its unions. The ICC extended the conditions under its discretionary authority to impose labor protection for this type of transaction involving a non-carrier acquisition of a rail line under former section 10901(c) of Title 49, United States Code [49 U.S.C. 10901(c)].
Pursuant to the ICC Termination Act of 1995 (ICCTA), the Board is now precluded from imposing any labor protection under that statutory provision.

In reaching its decision, the Board said that, under the governing *Lace Curtain* As set forth in the ICC’s decision in the case entitled *Chicago & North Western Tptn. Co.--Abandonment*, 3 I.C.C.2d 729 (1987)(*Lace Curtain*), *aff’d sub nom. International Broth. of Elec. Workers v. ICC*, 862 F.2d 330 (D.C. Cir. 1988). standard of review for arbitration decisions, its review is limited to “recurring or otherwise significant issues of general transportation importance regarding the interpretation of the statute or of our labor protective conditions.” The Board found that, particularly in light of the provisions of ICCTA removing the Board’s discretion to impose labor protective conditions in such future transactions, ASAB’s appeal of the arbitration decision concerns a unique situation unlikely to recur or to have any continuing significance.
Thus, the Board concluded that ASAB’s appeal does not meet the requirements for Board review under the narrow scope of review it applies to arbitration decisions implementing the Board’s labor protective conditions.

The Board issued its decision in Finance Docket No. 28905 (Sub-No. 28) and in STB Finance Docket No. 32435 (Sub-No. 1) on September 3, 1997.