

Springfield, MO

**CLAIM SUBMISSION AND HANDLING BY LOCAL CHAIRMAN:**

There are three (3) basic parts to any claim. They are:

- (1) Statement of Claim
- (2) Statement of Facts
- (3) Position

We shall discuss each of the parts as to what they should and should not contain:

- (1) Statement of Claim

**A statement of claim should include the four "W's": Who - When - Where - What.**

**Who:** When the claim of record falls under the purview of former NP conductor, brakemen or yardmen's Rules, the claimant need not be identified (named) in the statement of claim. We often receive claims filed by individual employees, seeking a penalty in behalf of the employee or a crew, when employees of a different craft perform work reserved for UTU represented train and engine service workers in violation of the Agreement. Such claims are procedurally defective and cannot be supported because they were initiated and progressed in behalf of improper claimants. Crew members who are on duty and under pay generally are not the claimants standing for service, and do not stand to collect a penalty **unless** they actually perform work which is outside the normal scope of their assignment.

Claims submitted by the Local Chairman covering conductors and trainmen working under former NP Rules should usually be filed in behalf of the employee or employee(s) standing for service for the compensation they would have received had they been properly called and used.

Claims submitted by the Local Chairman covering yardmen working under former NP Rules should normally be filed in behalf of the employee or employee(s) standing for service and should be for a 100 mile (basic day) penalty.

**When:** Is the date and time of claim occurrence.

**Where:** Is the location of the claim occurrence.

**What:** Is the amount claimed, such as a day's pay, time consumed, etc.

The statement of claim **should not** include facts involved or position. The following is an example of an improper statement of claim:

Claim in behalf of Conductor Cunningham and Brakeman Moss per timeslip No. 10 claiming 100 miles on December 10, 1998, at Mandan Yard, account performing yardman's work *by spotting car of ties to the tie pile because this is*

*yard work.*

The following example is a properly stated claim:

Claim in behalf of Mandan, ND Conductor Cunningham and Brakeman Moss per timeslip No. 10, dated December 10, 1998 claiming a basic day at the applicable rate account performing service beyond the scope of their road freight assignment at Mandan Yard, on December 10, 1998.

(2) Facts

Facts should be just that - facts. Example: If, while stating the facts, it were said "Conductor Cunningham and crew spotted car of ties to the tie pile *and claim is good because this is yard work*",

“. . .because this is yard work" is position, and has nothing to do with the facts on which the claim is based.

This part of the appeal **should include all known facts**. Often, facts that are so obvious at the local level, they are overlooked and result in the loss of a claim at a higher level. Some common facts overlooked: Were the claimants in assigned or unassigned service? Were they regular assigned employees or called extra? Was service performed required by proper authority? Even the time of the claim (a.m. or p.m.) is sometimes overlooked.

The following is a proper factual statement in the claim described above:

On December 10, 1998, Claimants were employed at Mandan in unassigned pool ID freight service with Fargo/Dilworth as distant terminal and automatic release point. Claimants were called on duty at 9:00 a.m. for Train No. S-SUPBWL. Following instructions of the proper authority, Yardmaster Mandan, Claimants switched car BN 45890 (a load of ties) from behind 5 cars on Track No. 3 and switched the car to Track No. 7 in the Material Yard. It was necessary to pull Track No. 7 and cut car BN 45890 in behind 16 cars already spotted at the tie pile. Service was performed between 9:30 a.m. and 10:25 a.m.

**Remember** About 40% of claims advanced to arbitration Boards are dismissed by National Boards because of conflict of facts.

(3) Position

Included should be a brief reason why you think the claim is good. You should state the rule or agreement, if known, or you may simply state that the claim is fully supported under provisions of the former Northern Pacific Schedule for Train and Yardmen, and comparable Conductor's Rules. If the claim is for a member working as an engineer, the controlling agreement is the former NP Schedule for Engineers. The position portion of the claim is often altered at the General Chairman's level to add further support for the claim.

**TIME LIMITS**

When advancing claims to the General Committee level, time limits should be carefully observed giving consideration to the fact, the U.S. Mail is slow. In the past, we have lost some claims over this. Today, however, we have the advantage of a Fax Machine and e-mail in our office. If time limits are close, do not hesitate to use either form of transmission. Our fax number is 612-227-0789 and e-mail address is garyvutu@visi.com. When sending a file as an attachment to an e-mail, make sure it has the proper extension (such

as .DOC for Microsoft Word, .WPD for WordPerfect) which is required to open files. For your information, this office uses WordPerfect. We also have Microsoft Word on our computers.

The following time limit considerations must be clearly understood and observed:

1. A claim **submitted by an individual member**. Each step involves sixty (60) days. The following time limits must be adhered to:
  - a. Member must file claim within 60 days of incident
  - b. Carrier must decline within 60 days
  - c. Local Chairman must appeal to Wong within 60 days
  - d. Mead must decline within 60 days
  - e. Local Chairman must get claim to General Chairman so the General Chairman can get appeal to Labor Relations Officer within 60 days. (Please send declined claims to General Chairman as soon as the decline is received)
2. A claim **initiated by the Local Chairman**. Each step involves 60 days. The following time limits must be adhered to.
  - a. Local Chairman must file claim with Wong within 60 days of incident
  - b. Carrier must decline within 60 days
  - c. Local Chairman must get claim to General Chairman so the General Chairman can get appeal to Labor Relations Officer within 60 days. (Please send declined claims to General Chairman as soon as the decline is received)
3. Merger guarantee claims, ID guarantee claims, and other protective claims must be submitted by the **individual member within 60 days of the month for which the claim is made** and ..see below

Circular letter No. 03-2002

All Local Chairmen (Former Northern Pacific)

**RE: Guarantee Claims.**

Dear Brothers and Sisters,

We have been informed of a new address for Local Chairman appeals of **Guarantee Claims**. The following is from the May 29th letter we received today:

*This is to advise of a change of address for the Labor Protection Group. All Protection Guarantee claims and grievances on protection issues on or on behalf of operating craft employees should be sent to the following:*

**Kay Parenteau  
Burlington Northern Santa Fe Railway Company  
C/O Mark Arnold**

**2600 Lou Menk Drive  
P. O. Box 961030  
Fort Worth, TX 76161-0030**

*All phone numbers within the department including fax's remain the same.*

All other claims and grievances (except discipline) should continue to be filed with George A. Wong, Director-TY&E Compensation Systems. Any questions, please call

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On the following pages you will find the Uniform Time Limit Rule which is now in effect on former NP Territory.

**MEMORANDUM OF AGREEMENT  
BETWEEN  
BURLINGTON NORTHERN RAILROAD COMPANY  
AND THE  
UNITED TRANSPORTATION UNION**

RE: Uniform Time Limit Rule for handling Claims and Grievances.

**Article I - Non-Applicability.**

This rule does not apply to requests for reinstatement without pay in discipline cases.

**Article II - Non-Compliance with Time Limit Rule Does Not Set Precedent.**

Failure to comply with the time limits specified in this rule will not set a precedent or waiver of the contentions of either party as to future application of rules regarding similar or identical claims. When U.S. mail is used the postmark date will apply.

**Article III - Claim and Declination Deadlines.**

All claims, including claims for guarantee payments, must be filed in writing by or on behalf of the employee or employees with the officer of the Carrier authorized to receive same within sixty (60) days from the date of the occurrence on which the claim is based. The date of occurrence in discipline cases is the date the notification of discipline is received. Claims not allowed must be declined\* by Carrier to the individual employee or his representative, whoever presented the claim, by notice in writing within sixty (60) days from date same is filed, giving the reason for such disallowance. If not so notified the claim shall be allowed.

\*the date of declination is the date the payroll printout is delivered to the employee or, in the case of a so-called "letter claim" the date the declination is delivered (mailed) to the individual submitting the claim.

**Article IV - Appeal and Declination Deadlines.**

If claim be is to appealed, such appeal must be submitted in writing by the *employee or representative of the employee's choosing* to the designated Carrier Officer within sixty (60) days from the date of notice of disallowance from the Carrier. Failing to comply with this provision the claim will be barred. If such appeal is to be declined the designated Carrier Officer will have sixty (60) days from date of such appeal to do so and if not declined to the appellant in writing within that period the claim shall be allowed. Claims initiated in letter format by a Local Chairman, declined by the designated Carrier Officer, will not be appealed under this Article but may be progressed by the General Chairman under Article VIII.

**Article V - Right of Representatives to File and Pursue Claims.**

This rule recognizes the right to representatives of the organization signatory hereto, to file and pursue claims for and on behalf of an employee or employees (named or unnamed) they represent. The Organization and the Carrier will cooperate to identify the aggrieved employee or employees (when they are unnamed) when the issue is settled on the property or, in the event the claim is not settled on the property, prior to submission of the dispute to a Tribunal having jurisdiction to dispose of the claim.

**Article VI - Continuing Claims**

Claims of a continuing nature (claims that involve a single agreement violation that have ongoing influence) applicable to an employee or employees need not be filed for each alleged violation, but must be resubmitted each sixty (60) days. This recognizes the right of the employee(s) or their representative to file a claim for *up to a sixty (60) day preceding the date of the discovery of the alleged violation upon which the claim or grievance is based.*

**Article VII - Right of Parties to Amend Positions During On-Property Handling.**

It is further recognized that the General Chairman and/or the Carrier's highest appeal officer are free to amend the respective positions taken by their local representatives with respect to the basis on which a claim is initially premised or declined during its handling on the local level so as to be consistent with their respective positions concerning the meaning and application of the involved rules of the contract.

**Article VIII - Final On-Property Appeal and Declination.**

Claims appealed by the General Chairman will be submitted to the highest designated Carrier officer within sixty (60) days of the date of declination by the designated Carrier officer or the claim will be barred. Highest designated Carrier Officer must decline the appeal within sixty (60) days or claim will be allowed.

The highest designated Carrier Officer and the General Chairman must conference the dispute within one (1) year of the date of the highest designated Carrier Officer's declination. The declination of the highest designated officer will be binding unless proceedings are instituted to dispose of said issue before a tribunal having jurisdiction within one year of the date of that declination. Failure to institute such proceedings will not establish precedent for any pending or future analogous claims.

**Article IX - Deadline for Submission of Dispute to Arbitration.**

Time limits as stated in this agreement may be extended for any case by mutual agreement between the parties.

**Article X - Effect of this Agreement.**

This agreement supersedes all previous agreements, practices or understandings on time limits for handling claims and grievances.

**Article XI - Effective Date.**

The effective date of this Agreement is September 1, 1996 .

Agreement signed at Fort Worth, TX, this 23 day of July, 1996.

## GENERAL CLAIM HANDLING INFORMATION

It is no longer necessary under the UTU Constitution to pass local action in order to advance claims to the General Chairman.

In general, penalty claims should be for *a basic day at the applicable rate*. Do not submit claims for a pay rate covering a craft we do not represent, such as carmen.

One of the more confusing areas of claim handling is determining whether to claim loss of earnings or runarounds. Generally, loss of earnings can only be supported when a **road service** employee is held from service, improperly denied the car or run of seniority preference, or when improperly displaced off a turn or run.

Runarounds, are usually the proper claim for extra employees, but not in all cases. An example is when a conductor only crew is instructed to perform service beyond the scope of a conductor only assignment (usually performing more than a straight pick up and/or set out at an intermediate location of their assignment). The proper claim in this case would be the miles of the assignment in turnaround service, or round trip line miles in pool service, for the brakeman standing for service.

When runarounds are submitted for a trainman's pool account improperly setting up a turn, using a yard crew, or using a car out of turn, at any terminal, the claim is for every crew with time to give, at the time the incident occurred. When a pool is runaround at either terminal, we feel we can support runarounds for all pool turns with time left to give (see Award 4[A] of P. L. Board 1539). We currently have a case going to arbitration claiming multiple run arounds for any crew with time to give under the hours of service at both the home and away from home terminals. File claims accordingly, letting the General Chairman know all Claimants names, if possible.

Runarounds have been determined to be proper even when seniority territory is infringed upon. See First Division Award 11014.

Claims for **yardmen** should always be for a basic day at the applicable rate, since there is no runaround rule in the yardmen's agreement (see 1NRAB Award No. 24137). An exception is when a yardman is runaround for a road call, in which case road rules apply, and the claim should be for 50 miles runaround under Rule 66.

Recent awards of the National Railroad Adjustment Board bear on the issue of handling claims for unnamed claimants. It is necessary for the local committee to acquire the names of those employees standing for service (unnamed claimants) and to provide them to the General Chairman at some stage of handling **prior to the claim being argued before an arbitration board**. We must introduce evidence identifying the claimants into the record, during handling on the property, and before the case is finally conferenced with the Carrier.

## DOCUMENTATION

The following documents must be included with every claim forwarded to the General Committee for further handling:

1. Time Slip or Ticket,
2. Delay Report (if applicable).
3. Declination of Time Slip or Ticket.
4. Local Chairman's Appeal to the Director Operating Timekeeping.
5. The Director Operating Timekeeping's declination of the Local Chairman's appeal.
6. **Any other pertinent facts, such as, but not limited to;** call sheets, board history, train lists, all Claimants when for multiple unnamed claimants, members statement of facts, employee call history, and any other records applicable to the claim.

The name and title of the individual to whom your letters must be appealed as of May 2002, **except those involving discipline**, is as follows:

George A. Wong  
Director-TY&E Compensation System  
c/o: Richard Salay

P.O. Box 1738  
10th Floor GOB  
Topeka, Kansas 66601

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**The following pages contain samples of various formats you may follow when filing appeals.**

APPEAL OF DIRECTOR OPERATING TIMEKEEPING'S DECLINATION

January 31, 1999

George A. Wong  
Director-TY&E Compensation System  
c/o: Richard Salay  
P.O. Box 1738  
10th Floor GOB  
Topeka, Kansas 66601

Claim No: 01/99

Dear Sir:

This is formal notice of appeal from your decision(s) relative to the claim(s) listed below:

Claim in behalf of Pasco Conductor R. McDaniel, and Brakeman J. Randel per Timeslip No. 10, dated December 12, 1998, claiming 30 minutes final terminal delay at Spokane, WA on December 12, 1998.<sup>1</sup>

Facts: On December 12, 1998, Claimants were employed at Pasco in unassigned pooled freight service with Spokane, WA designated as distant terminal and automatic release point. Claimants were called on duty at Pasco at 8:45 a.m. for Train No. S-SUPBWL. Claimants departed the terminal at 9:35 a.m. and arrived at their final terminal delay start point at Spokane at 4:15 p.m. Claimants were delayed in yarding their train until 5:45 p.m. when they were relieved from duty. Total delay of 1 hour and 30 minutes.<sup>2</sup>

Position: Claim is fully supported under provisions of Article V of the October 31, 1985 National Agreement.

If you fail to agree with the statement of facts as presented above, please advise and furnish a signed statement of facts.

cc: Claimant(s)

Comments

<sup>1</sup> The statement of claim should clearly identify the claimants and the claim of record by both number and date. The actual amount claimed should be specified. The location and date of the incident should be mentioned. The date of General Supt's. declination should not be referenced as part of any appeal unless you are invoking the time limit provisions.

<sup>2</sup> The statement of facts should provide all of the information necessary to apply the rules to the circumstances. Do not include a statement of position with the facts.

LOCAL CHAIRMAN'S LETTER CLAIM

IN BEHALF OF CLAIMANTS

George A. Wong  
Director-TY&E Compensation System  
c/o: Richard Salay  
P.O. Box 1738  
10th Floor GOB  
Topeka, Kansas 66601

Claim No: 02/99

Dear Sir:

UTU Local 977 hereby presents Local Chairman's time claim No. \_\_\_\_ for your consideration as stated below:

Claim in behalf of the yard service employees standing for service (foreman Randy Moss and helper Chris Carter) at Pasco, WA on December 11, 1998 at 3:15 p.m. claiming a basic day at the applicable rate account road freight crew used to perform yardman's work. 1

Facts: On December 11, 1998, in compliance with instructions issued by proper authority, Pasco Yardmaster, Conductor C. Carter and the road freight crew employed on Train No. S-SUPBWL was required to switch their train within the confines of switching limits at Pasco where yard crews are employed and were on duty. Conductor Carter and crew were required to switch the head 50 cars from their train and place them in numerical order. This switching was performed between the hours of 3:15 p.m. and 6:05 p.m.

Position: Claim is fully supported under the provisions of Rules 97, 107 and 109 of the former NP Train and Yardmen's Schedule.

In line with Burlington Northern and UTU agreed-upon requirements, any declination of this claim should include a signed statement of facts.

cc: Claimant(s)

Comments

1. Place your proposed Claimant/s in parentheses, this way we will get the claims paid quicker and also insure us against losing a board case account lack of claimant or wrong claimant.



LOCAL CHAIRMAN'S LETTER CLAIM  
TO COVER PRECEDING 60-DAY PERIOD

George A. Wong  
Director-TY&E Compensation System  
c/o: Richard Salay  
P.O. Box 1738  
10th Floor GOB  
Topeka, Kansas 66601

Claim No: \_\_\_\_\_

Dear Sir:

UTU Local 1344 hereby presents Local Chairman's time claim No. \_\_\_\_\_ for your consideration as stated below:

Claim in behalf of the employee or employees standing for service at Mandan, ND on January 7, 1999, and **for the 60-day period immediately preceding January 7, 1999,**<sup>1</sup> for a basic day at appropriate rate, each time mechanical department employees were used to operate the switches connected with the movement of trains through the Mandan Yard, as shown on Attachment "A".<sup>2</sup>

Facts: On November 9, 1998, the Carrier established new jobs at Mandan for 10 carmen who were required to line switches for road and yard train and engine movements, as part of their duties. The Local Chairman immediately advised the carrier officer in charge by telephone that the operation of yard switches for train and engine movements is yard utility work. This was followed by written protest. The Carrier has since persisted in using carmen to line switches at Mandan. All incidents are shown on Attachment "A".

Position: Claim is fully supported under provisions of Rules 97, 107, 109 of the former NP Train and Yardmen's Schedule, Article X of the May 20, 1993 Crew Consist Agreement, and INRAB Award No. 24176.

In line with Burlington Northern and UTU agreed-upon requirements, any declination of this claim should include a signed statement of facts.

cc: Claimant(s)

Comments

<sup>1</sup> Would require a new claim to be filed every 60 days.

<sup>2</sup> Each incident would be shown on Attachment "A" during the 60 day period. Would need to include date, time, location, name of employee throwing switch, and assignment switch lined for.

## **GETTING THE MEMBERS INVOLVED IN POLICING OUR SCHEDULE RULES AND AGREEMENTS**

The following statement of claim form (next page) can be very useful for a General Chairman, Local Chairman, and Member in sustaining a claim.

These forms fully filled out with pertinent facts carry much weight, when submitted with claims, and conferenced, at all levels.

These forms should be left in the Yard Office for everyone to use.

As Local Chairmen you should encourage your members to use these forms whenever putting in a claim for themselves, and when they see or hear a violation. Encourage them to give you a copy of these violations, so you can follow up with a claim, if applicable.

Example: Conductor "A", in conductor only service, is required to switch at an intermediate location, files a claim for a basic day. Conductor A should immediately fill out one of the forms and send to a Local Chairman, so a claim can be submitted for the brakeman standing for service. If Conductor "A" waits until his claim is declined, claim for brakeman may be dead on time limits.

Members should use these forms to report violations they see or hear, to the appropriate Local Chairman, so they can file a claim if appropriate.

Using these forms as a tool, try and set up a network of members to keep you informed of any violations taking place out there. A good group of informants, can make your job easier and more productive when it comes to collecting claims and making the Carrier live up to the agreements. And that is good for everyone, but the Carrier.

Any ideas on how to keep track of violations should be shared with all members of this Committee.

UNITED TRANSPORTATION UNION (Violation Report)

LOCAL CHAIRMAN \_\_\_\_\_ LOCAL NO. \_\_\_\_\_

DATE OF OCCURRENCE \_\_\_\_\_ ENGINE NO. \_\_\_\_\_ TIME SLIP NO. \_\_\_\_\_

PLACE OF OCCURRENCE \_\_\_\_\_

TERMINALS OF ASSIGNMENT \_\_\_\_\_

TYPE OF ASSIGNMENT \_\_\_\_\_

(Local, Thru Freight, Road Switcher, Work, Yard, etc.)

CREW MEMBERS: \_\_\_\_\_

TIME OF VIOLATION \_\_\_\_\_

(If a yard violation give hours yard service maintained, also job number and rest days)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PERSON ISSUING INSTRUCTION FOR VIOLATION: \_\_\_\_\_

DATE OF DECLINATION: \_\_\_\_\_

EXPLANATION OF FACTS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I BELIEVE RULES \_\_\_\_\_ SUPPORT THIS CLAIM.

CLAIMANT \_\_\_\_\_ DATE

COPY OF TIMESLIP, DELAY REPORT, AND DECLINATION MUST ACCOMPANY THIS FORM