

## Penalty Claim for Violation of Arbitration Award #458 Article XVII – Locomotive Design, Construction & Maintenance

Claim 130 miles penalty account working on locomotive (initial/number) on calendar day mmddyyyy on (Train/date) on duty at (time) at (circ-7) to (circ-7). This locomotive is in violation of Article XVII, Section (3) of Arbitration Award No. 458 for the following reason: (see note). This condition was immediately reported to carrier of dispatcher (name) and action taken was: xxxxxx. Claim the above penalty above any and all off-sets or guarantees for this period.

Note: use the applicable reason

- Engineer's seat with low back.
- No heat.
- Poor ventilation.
- Fumes.
- Excessive cab noise.
- Visibility.
- Lighting.
- Wash basin in middle of cab.
- Lack of cooler on engine.
- Unsanitary toilet on lead engine (overflowing/full/not maintained/sewage on floor or walls). This created an unsanitary odor and conditions for the crew.

Note: Be sure to show the defect on your engine inspection report on the tie-up screen. Keep a copy of the engine inspection and your "BU" report for the trip.

***Here is the text from Arbitration Award #458, Article XVII – Locomotive Design, Construction and Maintenance:***

Article XVII - LOCOMOTIVE DESIGN CONSTRUCTION AND Maintenance

### Section 1 - Maintenance Of Locomotives

The parties recognize the importance of maintaining safe, sanitary, and healthful cab conditions on locomotives. This Agreement affirms the carriers' responsibility to provide and maintain the aforementioned conditions particularly, although not limited to, such locomotive cab conditions as: heating, watercooler, toilet facilities, insulation, ventilation-fumes, level of cab noise, visibility, lighting and footing. The parties recognize that one way to achieve and maintain safe, sanitary, and healthful cab conditions on locomotives is by establishing procedures on each railroad for monitoring cab condition and expediting the reporting and correction of maintenance deficiencies. A. Local Implementation Each individual carrier

will designate an appropriate official(s) who will contact the BLE General Chairman (Chairmen) and arrange a meeting within 30 days from the date of this agreement for the following purpose: (a) Review the policies on the individual railroad concerning the existing procedures for reporting and correcting locomotive deficiencies, assess the effectiveness of such procedures, and, where appropriate, establish methods for obtaining more satisfactory results. (b) Institute a program whereby the Local BLE representative and the carrier's supervisors at each facility will participate in direct discussions regarding any maintenance problems at the locations under their jurisdiction for the purpose of carrying out the intent of this understanding, including evaluating the reports and suggestions of either party and implementing agreed-upon solutions thereto.

B. National Committee A National committee will be established within 30 days from the date of this Agreement, consisting of two members of the National Carriers' Conference Committee and two representatives of the BLE. The Committee may review and make recommendations with respect to any maintenance problem on an individual property that is referred to it by either party after efforts to resolve such matter on the individual property have been exhausted. The Committee may also consider any matter where the parties on an individual property have jointly concluded that the subject matter is one that may be addressed more appropriately on a national level.

Section 2 - Dispatchment Of Locomotives A Locomotive will not be dispatched in road service from engine maintenance facilities where maintenance personnel are readily available, and an engineer will not be required to operate the locomotive pending corrective action, if the engineer registers a timely complaint with supervision with respect to the controlling unit of the consist that is determined on investigation to be valid concerning - (a) the existence of a federal defect, as defined by the Federal Railroad Administration, with respect to the following matters: exhaust gases (ventilation) Cab lights locomotive cab noise Cabs, floors and passageways (footing) (cab seats) (vision) (heat) and (b) other conditions as follows: Lack of clean, sanitary toilet Lack of adequate cooled, potable water Lack of adequate toilet paper or hand towels Should the complaint be found valid, and if there is another unit in that consist or otherwise readily available which will eliminate the protest, the units will be rearranged provided such rearrangement will not result in unreasonable delay to the train. If the engineer performs the work to accomplish the rearrangement, no additional payment(s) will be allowed. If, however, the official makes a good faith determination that the locomotive is suitable for dispatch, the engineer will proceed with the assignment. An engineer will invoke the foregoing right in good faith and where a reasonable person would conclude that the carrier is in substantial non-compliance, i.e. more than technical non-

compliance. In determining the reasonableness of an engineer's complaint, among the factors to be considered are the timeliness of the complaint, the accessibility of the means to take corrective action, the seriousness of the deficiency, the engineer's ability or inability to correct the deficiency with means at his disposal and whether or not an unreasonable train delay would be incurred.

Section 3 - Locomotive Design and Construction In recognition of the desirability of consultation with the General Chairman (Chairmen) prior to the ordering of new locomotives, or while formulating plans to modify or retrofit existing locomotive, the parties agree that, before any design and construction changes in locomotives are made which change safety or comfort features of the locomotive, the designated officer of each individual railroad will contact the General Chairman (Chairmen) providing him with the opportunity to furnish the carrier with his recommendations for full and thoughtful consideration by the carrier. This Section 3 does not disturb existing local agreements that set forth required specifications for particular locomotive appurtenances or components.