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ARBITRATION UNDER AWARD OF NATIONAL LONGSHOREMEN'S BOARD

February 28, 1935

M. C. SLOSS
Arbitrator for Pacific Coast Ports
on Basic Questions
1300, One Eleven Sutter
San Francisco, California

In the Matter of)
)
INTERPRETATION OF SECTION 1)
OF AWARD OF NATIONAL)
LONGSHOREMEN'S BOARD)
)
RELATING TO DEFINITION OF)
"LONGSHORE WORK".)

AWARD OF ARBITRATOR FOR PACIFIC COAST PORTS

M.C. Sloss
Arbitrator for Pacific Coast Ports

In the Matter of)
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INTERPRETATION OF SECTION 1)
OF AWARD OF NATIONAL)
LONGSHOREMEN'S BOARD)
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RELATING TO DEFINITION OF)
"LONGSHORE WORK".)

I. QUESTION PRESENTED FOR DECISION

The arbitrator is asked to interpret the provisions of the first paragraph of Section 1 of the Award of the National Longshoremen's Board, reading as follows:

"Longshore work is all handling of cargo in its transfer from vessel to first place of rest including sorting and piling of cargo on the dock, and the direct transfer of cargo from vessel to railroad car or barge and vice versa."

The differences between the parties turn principally on the meaning of the words "first place of rest" and the words "direct transfer".

The evidence shows that the operations involved in loading and unloading vessels are conducted in a variety of ways, depending upon the character of the cargo, the construction, arrangement and equipment of docks, warehouses and mills, and upon other conditions. It is obviously impossible to define, for each one of the many varying situations and operations, the exact point at which longshore work begins or ends. All that can be done is to state the general principles governing the interpretation of Section 1 of the Award, leaving to the local Labor Relations Committees the task of applying these principles to the specific situations which may be presented.

It should also be stated that the arbitrator has no authority to alter the Award of the National Longshoremen's Board. He can only seek to determine its meaning.

II. DECISION AND AWARD

The arbitrator decides as follows:

The paragraph of Section 1 above quoted deals with two situations: (1) Where the cargo comes to a place of rest on the dock, after being unloaded from a vessel, or before it is loaded on to a vessel; and (2) Where there is a "direct transfer" from vessel to railroad car or barge or from railroad car or barge to a vessel.

Under Situation (1) the determining factor is: What is the first place of rest on the dock, in the case of unloading a vessel, and, similarly, what is the last place of rest on the dock, in the case of loading a vessel? In unloading, longshore work includes the handling of the cargo from the time the goods are taken from the hold until they come to rest at some place on the dock, including the sorting and the piling of the cargo on the dock where such sorting and piling occur. At that point the work of the longshoremen comes to an end. Similarly, in the case of loading on a vessel, the work of the longshoremen begins when the cargo is taken from its last place of rest on the dock and ends when the cargo is stowed in the hold or on the deck of the vessel.

Situation (2) refers to an operation which does not involve the depositing of cargo at a "place of rest" on the dock. The provision covering a "direct transfer" from vessel to car or barge or vice versa was intended to cover the moving of cargo from vessel to car or barge (or vice versa) in a single operation. The word "direct" conveys to my mind just this idea of one movement, and is not applicable to a transfer of cargo from a railroad car or barge to a place of rest on a dock, with a subsequent moving of the cargo from this place of rest to the vessel.

The foregoing interpretation may be illustrated by reference to one of the specific operations referred to in the testimony.

It appeared that at some docks cars are brought in on a railroad track running along one side of the dock, the other side being available for vessels. Cargo (generally lumber or pulp) is unloaded from the cars and placed on sling boards which are then moved by lift jitney or Ross carrier to a point on the dock, where the sling loads are piled. After an interval of shorter or longer duration, the sling loads are again picked up by a similar carrier and moved to the side of the vessel where they are picked up and slung aboard.

My conclusion is that in such a case the point at which the sling loads of lumber are piled on the dock in the first movement from the cars is the "last place of rest" on the dock. In moving the cargo from that place to and on to the vessel the work is, under the Award, longshore work.

I cannot accept the claim of the I.L.A. that the entire series of steps, beginning with the unloading of the cars, is longshore work, or that it constitutes a "direct transfer" from car to vessel. The argument of the I.L.A. is that when the cargo is placed on slings, which are to be used in hoisting the cargo on to the vessel, the cargo is identified as destined for the ship, and that the entire operation, from the beginning of such loading on the slings becomes a "direct transfer". The language of the Award does not justify a differentiation based upon the intention accompanying the placing of cargo on slings. Furthermore, it appears that some classes of cargo are placed on sling boards, suitable for hoisting on to a ship, at the mill or other place of origin, which may be hundreds of miles from the dock. It is conceded by the I.L.A. that in such cases the "longshore work" does not begin at the more or less remote point where the cargo is loaded on the sling boards. If the loading on the slings, in such cases, does not mark the beginning of longshore work, it is difficult to see how such loading can have this effect when the car is on a track adjoining the dock, but on the opposite side from the ship.

On the other hand, I cannot accept the claim of the employers that the "last place of rest" is at ship's side or ship's tackle. In the illustration given above, i.e., the movement of lumber piled on sling boards from the cars to a point at which it is piled on the dock, and from which it is thereafter removed to ship's side, the last place of rest is the point at which the sling loads are thus piled on the dock.

In reaching these conclusions, I give no consideration to the length of time that may elapse between the placing of the sling loads on the dock and their subsequent removal for loading on the vessel. As already indicated, the operation described is not, in my view, a "direct transfer" from car to vessel. The determining factor is whether the cargo has come to a "place of rest" on the dock, and the length of time in which it is in such place of rest is immaterial.

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(Signed) M.C. Sloss

Arbitrator for Pacific Coast Ports

Dated: February 28th, 1935.