



TEAMSTERS CANADA RAIL CONFERENCE
CONFÉRENCE FERROVIAIRE DE TEAMSTERS CANADA

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Harvey Makoski
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Secretary Treasurer

April 26, 2012

TO THE TCRC EXECUTIVE BOARD MEMBERS

Re: Interpretation of Sections 7 and 12 - Special Reps and Section 14 Executive Board Duties

Dear Sister and Brothers,

As committed to you and given my authorities as President and Principal Officer of the TCRC, I have carefully reviewed the motion of Doug Finnon (a motion recently passed by the Executive Board – attached below) and as a result of such review provide the following interpretations of the TCRC Bylaws.

Given such interpretations, as provided by Section 7 “Duties of the Rail Conference President” – item (b), I find the motion out of order as it violates the correct interpretation and application of the TCRC Bylaws.

Section 12 of the Bylaws (Special Representatives) provides the President the substantive authority to place Special Representatives in the field:

*“The Rail Conference President **shall** have the authority to place Special Representatives in the field **at his discretion**.” (emphasis added).*

In appointing such representatives the President has the authority to appoint two (2) Permanent Special Representatives. In addition, the President has the ability to appoint an unspecified number of Temporary Special Representatives, due regard however to the President’s fiduciary responsibility.

In the application of the foregoing (Section 12) there are no other restraints or qualifications that would otherwise impede the decision of the President in the appointment of such representatives.

With respect, I find that the motion of the Executive Board has established conditions to be met with respect to such appointments which I find contravenes my interpretation of the TCRC Bylaws.

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Further and in addition, the duties of the Executive Board (Section 14) state in part :

“establish the salaries for the....Special Representatives...”

It is my interpretation of this portion of Section 14 that once the President exercises his mandated and substantive authority to place Special Representatives in the field, the Executive Board MUST establish the salaries for such Special Representatives.

Such salaries must be established consistent with their fiduciary responsibilities as Members of the Executive Board (salaries being fair and reasonable). With respect, I find that the Executive Board failed in their duties to comply with this critical application of Section 14 and therefore, given my interpretation, the motion cannot stand or be implemented as passed.

Further and in addition, I have reviewed the files and can find on only one occasion where a “permanent representative” was appointed and where salary and allowances (automobile) were established by the Executive Board.

Such is not the case with respect to Temporary Special Representatives which (given the long held past practice etc.) has established wages based on the daily committee person’s rate of pay and, in addition, with reimbursement of properly authorized expenses.

In consideration of all of the above, it is my interpretation of Section 14 that the establishment of “salaries, allowance and expenses” refers to Permanently Assigned Special Representatives and not to Temporarily Assigned Special Representatives.

In any event, in the alternative, if such was not the case (daily wage of a temporary Special Representative was deemed to be a salary), I would nevertheless find the motion cannot stand for the following reasons :

As noted, Temporary Special Representatives have an established daily rate of pay (committee person’s rate of pay) and, as a result of such establishment, the following provision of Section 14 would therefore be applicable:

“Changes in the salaries, allowances or expenses of....Special Representatives shall be specifically set forth in the minutes of the Executive Board meeting at which such changes are approved.”

In the motion at issue no such changes to the wages of the Temporary Special Representatives are noted nor were they otherwise addressed during the recent executive board meeting.

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Finally, the duties of the President of the TCRC are well established. I find in my interpretation of such duties that the Executive Board is without authority to direct the President to issue reports to the Executive Board on a weekly basis. Further, nor is the President required to provide his reports in writing to the Executive Board at regular meetings.

Having stated such, the President, as has been his consistent practice, filed his reports to the Executive Board and subsequently to the TCRC membership at each regular meeting since assuming Office, a practice that will continue.

As President and Principal Officer of the TCRC, given the above interpretations, the motion and conditions therein contravene the TCRC Bylaws and therefore cannot stand or apply.

In providing the above interpretations I respectfully remind you that at the next regular convening of the Executive Board of your right to appeal my above noted interpretations under Section 14 (16) of the TCRC Bylaws which states:

“Review interpretations of these Bylaws rendered between meetings by the Principal Executive Officer. Disputes over the interpretations of these Bylaws shall be submitted to the Teamsters Canada President, pursuant to Article VI Section 2(a) of the IBT Constitution.”

Fraternally yours,



Rex Beatty

President – TCRC

RB/lr

cc : All Divisions
Rob Smith, National Legislative Director
General Chairs
PLB Chairs

MOTION OF DOUG FINNISON

Whereas the President has appointed two special representatives in previous months, and

Whereas the Executive Board has not provided authority to establish the salary and expenses for the two special representatives under Bylaws Section 14(2), and

Whereas the President has not provided sufficient information to the Executive Board to justify the establishment of salary and expenses, and

Whereas the President has indicated he intends on appointing numerous other special representatives, some of whom are not even active members, and

Whereas the Executive Board has not provided authority to establish the salary and expenses for any other special representatives under Bylaws Section 14(2), and

Whereas the President has not provided sufficient information to the Executive Board to justify the establishment of salary and expenses, and

Whereas there is no immediate need to establish additional special representatives, and

Whereas the Executive Board has not received any reason to justify the establishment of so many special representatives, and

Whereas the President has not fulfilled the commitment to deliver a training and education program for the membership,

Therefore, be it resolved that:

The President is not authorized to provide payment of salary or expenses to any of the group of special representatives until he has provided to the Executive Board a sufficient explanation, justification, including a complete list of duties and responsibilities for each special representative and has received the proper authority from the Executive Board to establish a salary and/or expenses for each special representative as provided for within TCRC Bylaws, Section 14, (2);

And

The Executive Board directs the President to immediately fulfill his responsibility in providing a Training and Education program as authorized by the Executive Board in April 2011 and again in July 2011, at the Executive Board meetings, and to report weekly to the Executive Board members on the progression of this responsibility and to also report to the Executive Board in writing at the next regular meeting as to the advancement of this project. Training and Education is a priority to this Executive Board and is a responsibility that has presently been claimed by the President, and his attention and efforts must be directed to this responsibility immediately.