



# Brotherhood of Locomotive Engineers and Trainmen

Division of the Rail Conference - International Brotherhood of Teamsters

Norfolk Southern Lines

General Committee of Adjustment

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January 9, 2011

ALL LOCAL CHAIRMAN

Brothers and Sisters:

As most of you know in 2007 our General Committee entered into a codified agreement. Part of Article 6 of this Agreement contained language that would be applicable to how temporary vacancies and vacation related vacancies would be claimed by engineers. The intent was to allow a vacation related vacancy to be claimed while providing a structure for claiming vacancies that was uniform and easily understood. Prior to the implementation of this new rule we met with Labor Relations and quickly came to the realization that we did not share the same understanding of it's application. The end result was that the implementation was suspended and the handling of temporary vacancies remained unchanged.

Early in 2010 Labor Relations advised me that they intended to implement the temporary vacancy rule outlined in Article 6 of the 2007 Scheduled Agreement. It was apparent that they intended to implement their interpretation of the rule, which was very restrictive. It was clear to me that we could not agree to such a restrictive application. In response we could have arbitrated the matter. However, letting an arbitrator dictate our fate on such an important matter posed too great a risk. Further, Labor Relations' restrictive interpretation of the rule would have likely remained in place until the matter was resolved through the arbitration process, which can be lengthy. As a result, I requested we meet again to try and resolve the matter.

After many discussions we reached an understanding of how the rule would be applied. The result is a clear structure for how all temporary vacancies will be handled that provides ample opportunity for engineers to claim temporary as well as vacation related vacancies. The interpretation was constructed in the form of questions and answers that should ensure proper application.

As most of you know, the many local applications of the vacancy rule creates an issue for the Local Chairman because no reference exists. This problem is most prevalent when any change is made to either local supervision or crew management personal. It can also arise when a new Local Chairman is put in place. This results in the Local Chairman having to get actively involved in many vacancy moves and a delay in the member being placed on the vacancy.

The question and answers are attached and will be implemented beginning with the temporary vacancies starting on Monday, January 17, 2011. At first glance, the temporary vacancy may seem very different from what is in place today. However, after reviewing the question and answers in their entirety I think the underlying premise of our temporary vacancy rule was preserved. Please review and familiarize yourself with the attached questions and answers.

Fraternally yours,

W. M. Overton, Jr.  
General Chairman

cc: W. A. Thompson, 1st VGC by Email  
ML. Wallace, 2nd VGC by Email



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**Stephan R. Budzina**  
Assistant Vice President

May 13, 2010  
AG-E-101

Mr. W. M. Overton, General Chairman  
Brotherhood of Locomotive Engineers and Trainmen  
P. O. Box 1305 Powell, Tennessee 37849

Dear Mr. Overton:

This is in reference to our recent discussions regarding Article 6, Section C of the NSR Engineers Schedule Agreement. As previously discussed, below are the questions and answers outlining our interpretation of Article 6, Section C:

**Q. 1. What is a known temporary vacancy?**

A. 1. A known temporary vacancy is a scheduled vacation vacancy of one week or more.

**Q. 2. What is a vacation related vacancy?**

A. 2. A vacation related vacancy is the vacancy created by an engineer being awarded a known temporary vacancy.

**Q. 3. What is a temporary vacancy?**

A. 3. A temporary vacancy is a vacancy that is not a known temporary vacancy or vacation related vacancy that has remained vacant for six days.

**Q. 4. When a known temporary vacancy ends, is the engineer who held the vacancy considered displaced?**

A. 4. No. The engineer is returned to his original assignment or if the engineer was a successful bidder on another known temporary vacancy, he will be placed on that vacancy.

**Q. 5. Assuming the engineer is not the successful bidder on another known temporary vacancy, when will the engineer be placed back on his assignment at the end of his known temporary vacancy?**

A. 5. At the conclusion of the known temporary vacancy, Engineers will be placed back on their assignment and protect their assignment in accordance with Schedule Rules and the Hours of Service Law. Engineers may elect to take 12 hours placement time beginning at the end of the known temporary vacancy before being required to protect their assignment. Engineers will be responsible for advising Crew Management that they are electing to take 12 hours placement time and they must advise Crew Management before going off duty on the last work day of their known temporary vacancy. Engineers electing to take 12 hours placement time will be automatically marked-up on their assignment at the expiration of the 12 hours.

**Q. 6. May an engineer on a known temporary vacancy bid on known temporary vacancies scheduled to begin in the subsequent week?**

A. 6. Engineers may bid on known temporary vacancies that begin after the known temporary vacancy they are holding ends. Engineers may not bid on known temporary vacancies that begin before the known temporary vacancy they are holding ends.

**Q. 7. May engineers on a known temporary vacancy claim a known temporary vacancy that began before the known temporary vacancy they are holding ends?**

A. 7. Yes. If the engineer has not bid on a known temporary vacancy that begins after the known temporary vacancy he is holding ends, he may claim (seniority permitting) a known temporary vacancy that began before his known temporary vacancy ended. The engineer must claim the known temporary vacancy between 12:01 a.m. and 11:59 a.m. on the last day of the known temporary vacancy they are holding and will be placed on the claimed known temporary vacancy at the end of the known temporary vacancy originally bid in.

**Q. 8. May engineers claim known temporary vacancies that begin after the known temporary vacancy they are holding ends?**

A. 8. No. Engineers may bid to known temporary vacancies that begin after the known temporary vacancy they are holding ends as provided for in Article 6, Section C.

**Q. 9. May engineers on known temporary vacancies claim vacation related vacancies that begin before the known temporary vacancy they are holding ends?**

A. 9. No.

**Q. 10. When an engineer claims a known temporary vacancy as contemplated in Question and Answer 7 above, will the engineer holding the claimed known temporary vacancy be placed back on his original assignment?**

A. 10. Yes. Once notified that the known temporary vacancy he was holding has been claimed, he will be placed back on his original assignment and may elect to take 12 hours placement time.

**Q. 11. When an engineer is returned to his original assignment, as contemplated in Question and Answer 10, will the engineer holding his assignment as a vacation related vacancy be returned to his original assignment?**

A. 11. Yes. Once notified that the incumbent has returned to the vacation related vacancy he was holding, he will be placed back on his original assignment and may elect to take 12 hours placement time.

**Q. 12. Will a known temporary vacancy of two weeks or more duration be claimable again after seven days?**

A. 12. Yes. Known temporary vacancies of two weeks or more duration will be claimable, through the bid process, every seven days.

**Q. 13. Will the engineer who bid in the first week of a known temporary vacancy of two weeks or more in duration, be considered an automatic bidder for the remainder of the known temporary vacancy?**

A. 13. Yes. The engineer may withdraw his automatic bid before the last day of the bid period.

**Q. 14. If an engineer is the successful bidder of a known temporary vacancy and his current assignment goes on duty at or before 11:59 p.m. the day before he was to be assigned to the known temporary vacancy (at 12:01 a.m. the following day), is he required to work his current assignment?**

A. 14. Yes. The engineer will be placed on the known temporary vacancy at the end of his tour of duty on his current assignment, or if the current assignment takes rest at the away-from-home terminal, when the current assignment goes off duty in the home terminal.

**Q. 15. When may an engineer claim a vacation related vacancy?**

A. 15. All vacation related vacancies may be bid on between 12:01 a.m. and 11:59 a.m. on the first day of the vacation related vacancy. The engineer awarded the vacation related vacancy will be assigned effective 12:01 p.m. on the first day of the vacation related vacancy.

**Q. 16. May an engineer claim a vacation related vacancy?**

A. 16. No. Movement to any vacation related vacancy is achieved through the bid process outlined in Question and Answer 15.

**Q. 17. If an engineer is the successful bidder on a vacation related vacancy at 12:01 p.m. on the first day of the vacation related vacancy and 12:01 p.m. is past the call time of the engineers' current assignment, is he required to work his current assignment?**

A. 17. Yes. The engineer will be placed on the vacation related vacancy at the end of his tour of duty on his current assignment, or if the current assignment takes rest at the away-from-home terminal, when the current assignment goes off duty in the home terminal.

**Q. 18. Will an engineer who is awarded a vacation related vacancy be notified that he was the successful bidder?**

A. 18. Yes. Unsuccessful bidders will not be notified and will continue to protect their assignment.

**Q. 19. Will an engineer who failed to bid on a vacation related vacancy that was awarded to another engineer be permitted to bid/claim the vacation related vacancy on subsequent days?**

A. 19. No.

**Q. 20. Will an engineer who failed to bid on a vacation related vacancy that was not awarded to another engineer be permitted to bid/claim the vacation related vacancy on subsequent days?**

A. 20. Yes. A vacation related vacancy that was not awarded may be bid upon on the subsequent day in the manner outlined in Question and Answer 15.

**Q. 21. May the vacancy created by an engineer bidding to a vacation related vacancy be claimed/bid upon?**

A. 21. No.

**Q. 22. When will engineers be placed back on their assignment at the end of vacation related vacancies?**

A. 22. Engineers will be placed back on their assignment at the conclusion of the vacation related vacancy, unless they are the successful bidder on another known temporary vacancy, and will protect their assignment in accordance with Schedule Rules and the Hours of Service Law. Engineers being placed back on their assignment following a vacation related vacancy may elect to take 12 hours placement time.

**Q. 23. Will engineers on vacation related vacancies be permitted to bid to known temporary vacancies that begin before the vacation related vacancy they are holding ends?**

A. 23. No.

**Q. 24. Will a temporary vacancy (not a known temporary vacancy or vacation related vacancy) that has existed six days be claimable?**

A. 24. On the seventh day only, Engineers may bid on the assignment until 8:00 p.m. The successful bidder will be placed *an* the assignment at 12:01 a.m. on the eighth day and will hold the vacancy until the incumbent returns or the assignment is re-advertised (permanent) because the incumbent has been off of the assignment 30 days. In the event the assignment is re-advertised (permanent) the engineer who was awarded the temporary vacancy will hold the vacancy for the duration of the bidding period. When the incumbent returns or the assignment is awarded to the successful bidder (assuming it is not the engineer who originally claimed the assignment) the engineer who had held the assignment as a temporary vacancy will return to his original assignment and will not have a displacement but may elect to take 12 hours placement time.

**Q. 25. If an engineer is the successful bidder of a temporary vacancy and his current assignment goes on duty at or before 11:59 p.m. the day before he was to be assigned to the temporary vacancy (at 12:01 a.m. the following day), is he required to work his current assignment?**

A. 25. Yes. The engineer will be placed on the temporary vacancy at the end of his tour of duty on his current assignment, or if the current assignment takes rest at the away-from-home terminal, when the current assignment goes off duty in the home terminal.

**Q. 26. May an engineer on a temporary vacancy bid on known temporary vacancies or vacation related vacancies?**

A. 26. Yes. The temporary vacancy the engineer left will be protected by the extra board. If the assignment left is vacant for six days, it may be bid upon as outlined in Question and Answer 24. The engineer who left the temporary vacancy for the known temporary or vacation related vacancy will be placed back on his original assignment (permanent) at the end of the known temporary or vacation related vacancy, unless he is the successful bidder for the temporary vacancy he originally left.

**Q. 27. When will engineers be placed back on their original assignment at the end of a temporary vacancy?**

A. 27. Engineers will be placed back on their assignment at the conclusion of the temporary vacancy and will protect their assignment in accordance with Schedule Rules and the Hours of Service Law. Engineers placed back on their assignment at the end of a temporary vacancy may elect to take 12 hours placement time.

**Q. 28. Will engineers on known temporary and vacation related vacancies be permitted to bid on temporary vacancies?**

A. 28. Yes. An engineer holding a known temporary or vacation related vacancy who is the successful bidder on a temporary vacancy will be placed on the temporary vacancy at the end of the known temporary or vacation related vacancy. The extra board will protect the temporary vacancy until the successful bidder completes the known temporary or vacation related vacancy and is placed on the temporary vacancy.

**Q. 29. How will a vacancy that has existed for six days (not a known temporary vacancy or vacation related vacancy) be protected if it was not claimed by an engineer on the seventh day?**

A. 29. The vacancy will continue to be protected by the extra board. If the incumbent does not mark back up to the assignment within 30 days, the assignment will be re-advertised as a permanent vacancy.

**Q. 30. Will the vacancy created by an engineer who successfully claims a temporary vacancy (not a known temporary vacancy or vacation related vacancy) be claimable?**

A. 30. Engineers may bid on the vacancy, in the manner outlined in Question and Answer 24, after the assignment has been vacant for six days.

**Q. 31. May an engineer claim a vacancy when it is known in advance that the vacancy will be 6 days or less in duration?**

A. 31. No.

**Q. 32. Will the unprotected day(s) of a known temporary, vacation related, or temporary vacancy that result from the engineer protecting their current assignment before being placed on their known temporary, vacation related, or temporary vacancy be claimable?**

A. 32. No.

**Q. 33. Are engineers permitted to bid for known temporary, vacation related, or temporary vacancies within their own pool?**

A. 33. No.

**Q. 34. May an engineer leave a known temporary, vacation related, or temporary vacancy before it ends?**

A. 34. No, unless the incumbent of the assignment is permanently displaced or as outlined in Question and Answer 28. If the incumbent of the assignment is permanently displaced, the engineer holding the assignment as a known temporary, vacation related, or temporary vacancy will return to his regular assignment and may elect to take 12 hours placement time.

**Q. 35. May an engineer on a known temporary, vacation related, or temporary vacancy make a displacement to another known temporary, vacation related, or temporary vacancy before the vacancy he is holding ends?**

A. 35. No. Movement to a known temporary vacancy is achieved through the bid process outlined in Article 6, Section C and the exception referenced in Question and Answer 7. Movement to a vacation related vacancy is achieved through the bid process outlined in Question and Answer 15. Movement to a temporary vacancy is achieved through the bid process outlined in Question and Answer 24.

**Q. 36. May an engineers' assignment that is under advertisement be claimed?**

A. 36. Yes. On the 1<sup>st</sup> day of the advertisement only, engineers may bid on the assignment until 8:00 p.m. The successful bidder will then be placed on the assignment at 11:59 p.m. on the 1<sup>st</sup> day of the advertisement.

**Q. 37. Will an engineer who is holding a known temporary, vacation related, or temporary vacancy, be permitted to exercise a 30 day displacement?**

A. 37. Yes. Engineers will be placed on their new assignment at the conclusion of the known temporary, vacation related, or temporary vacancy.

**Q. 38. Will an engineer who was absent for any reason during all or any portion of the bulletin period of a known temporary, vacation related, or temporary vacancy be permitted to exercise a displacement to the known temporary, vacation related, or temporary vacancy?**

A. 38. No. Engineers who are off for any reason may bid on known temporary, vacation related, and temporary vacancies in accordance with Article 6, Section C and these Questions and Answers, but may not exercise a displacement to them.

**Q. 39. Will engineers be permitted to bid on/claim known temporary vacancies, vacation related vacancies, and temporary vacancies regardless of status (i.e. vacation, on-duty, off-duty, at away-from-' home terminal, off sick, etc).**

A. 39. Yes. In accordance with Article 6, Section C and these Questions and Answers.

**Q. 40. Will engineers who are off and have their access to the Crew Management System revoked be permitted to bid on known temporary, vacation related, or temporary vacancies?**

A. 40. No.

**Q. 41. Will engineers who are off and have their access to the Crew Management System revoked be permitted to exercise seniority to known temporary, vacation related, or temporary vacancies when they return to service?**

A. 41. No. They may bid on known temporary, vacation related and temporary vacancies as outlined in Article 6, Section C and these Questions and Answers.

**Q. 42. How will a vacancy awarded to an engineer who is unable/not available to protect the vacancy he was awarded be protected.**

A. 42. The extra board will protect the vacancy until the successful bidder returns or the vacancy ends.

**Q. 43. When known in advance that an engineer will be off (i.e. medical, family medical leave, discipline, etc) more than six days will his vacancy be claimable as a known temporary vacancy?**

A. 43. No. If the assignment remains vacant for six days, Engineers may bid on the vacancy, in the manner outlined in Question and Answer 24, after the assignment has been vacant for six days.

**Q. 44. Will the days an engineer is unavailable to protect a known temporary, vacation related, or temporary vacancy because of the Rail Safety Improvement Act be claimable?**

A. 44. No.

If you have any questions regarding the above, please contact Assistant Director Drew Shepard at (757) 629-2450.

Very truly yours,

