

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

In re Boston & Maine Corp.

600 F.2d 307 (1st Cir. 1979) · No. 78-1516, 78-1517, 78-1518, 78-1519 · Decided June 15, 1979

SUMMARY

The First Circuit affirmed the refusal to order immediate payment of pre-reorganization freight-car per diem claims owed to appellant railroads. The court held that these claims were ordinary pre-reorganization unsecured claims subject to the reorganization court’s authority to establish payment priorities and timing, notwithstanding the Interstate Commerce Commission’s authority over railroad operations and car-service rates. The court distinguished claims supported by pre-reorganization services from post-reorganization administrative expenses and rejected the contrary approach taken in *Matter of Chicago, R.I. & P.I. R.R. Co.*

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Coffin, Chief Judge
JURISDICTION	Federal
DECIDED	June 15, 1979
DOCKET	78-1516, 78-1517, 78-1518, 78-1519
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the district court's refusal to order immediate payment of pre-reorganization freight-car per diem claims before payment of other unsecured pre-reorganization claims.
STANDARD OF REVIEW	Review of the district court's determination concerning the priority and timing of payment of claims in a railroad reorganization; the court applied de novo legal analysis to the statutory allocation of authority and affirmed the exercise of reorganization-court discretion.
PRECEDENTIAL VALUE	Published, precedential federal circuit opinion
PARTIES	Appellant railroads, Trailer Train, Maine Central Railroad v. Trustees of the Boston and Maine Corporation, The First National Bank of Boston, et al.

TOPICS

reorganization

bankruptcy

administrative law

appellate procedure

standard of review

PRACTICE AREAS

Bankruptcy

Railroad reorganization

Administrative law

Appellate procedure

QUESTIONS PRESENTED

1. Whether the Interstate Commerce Commission's general authority over railroad operations and car-service rates required the reorganization trustee to pay pre-reorganization freight-car per diem claims immediately.
2. Whether the ICC's 1968 determination concerning 1953-1969 rates constituted an order fixing rates or directing payment that superseded the reorganization court's control over pre-reorganization claims.
3. Whether per diem charges based on car use before the reorganization filing became post-filing obligations merely because the charges were settled or the ICC order became effective after filing.
4. Whether Trailer Train, a car-line owner and lessor rather than a railroad, could obtain immediate payment based on the policy underlying ICC per diem orders.

HOLDINGS

1. The Interstate Commerce Commission's general authority over the trustee's railroad operations does not eliminate the reorganization court's discretion to establish priorities and schedule payment of pre-reorganization claims.
2. The ICC's 1968 decision concerning past rates was advisory and did not constitute an exercise of the Commission's power to set rates or order payment for the 1953-1969 period.
3. Per diem claims supported by pre-reorganization car use remain claims against the debtor, not expenses of administration or obligations of the trustee, even if settlement occurred after the reorganization petition was filed.
4. Trailer Train was not entitled to immediate payment because policy considerations favoring prompt per diem payment cannot override the reorganization court's discretion when no direct ICC order applied to its rentals.

KEY QUOTATIONS

“To hold that the Interstate Commerce Act mandates major repayments of funds to selected creditors, without regard to all other needs of the estate and public, would necessarily run counter to the theory underlying the administration of insolvent estates and, in particular, railroads in reorganization.” (312)

“As to settlements due before filing, the trustee could not have violated Commission orders because the trustee did not exist.” (312)

“For so long as the trustee operates a railroad, he must comply with ICC orders relating to his operation.” (313)

FACTUAL BACKGROUND

Boston and Maine had paid reduced freight-car per diem rates after withdrawing from an Association of American Railroads rate-setting agreement in 1953. The Interstate Commerce Commission later determined reasonable rates for the period from 1953 through August 1, 1969, and prescribed rates prospectively from August 1, 1969, with a later effective date for resettlement purposes. After Boston and Maine filed for reorganization on March 12, 1970, appellant railroads sought immediate payment of the difference between the amounts previously paid and the amounts calculated under the ICC rates, including charges supported by pre-filing car use.

PROCEDURAL HISTORY

Boston and Maine filed a railroad reorganization petition on March 12, 1970. Appellant railroads and Trailer Train sought an order requiring the reorganization trustee to pay approximately four million dollars in pre-reorganization per diem charges immediately. The district court denied the request, concluding that the claims had no statutory priority over other pre-reorganization claims and that the Interstate Commerce Commission had not exercised jurisdiction in a manner overriding the reorganization court's payment discretion. The First Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Boston & Maine Corp., 456 F. Supp. 412 (D. Mass. 1978)
- Baltimore & Ohio R.R. Co. v. N.Y., N.H. & Hartford R.R. Co., 196 F. Supp. 724 (S.D.N.Y. 1961)
- Boston & Maine R.R. v. United States, 297 F. Supp. 615 (D. Mass.), *aff'd*, 396 U.S. 27 (1969), *reh'g denied*, 396 U.S. 1030 (1970)
- Seaboard Coast Line R.R. Co. v. Long Island R.R. Co., 595 F.2d 96 (2d Cir. 1979)
- In re Penn Central Transportation Co., 486 F.2d 519 (3d Cir. 1973) (*en banc*), *cert. denied*, 415 U.S. 990 (1974)
- Matter of Chicago, R.I. & P.I. R.R. Co., 537 F.2d 906 (7th Cir. 1976), *cert. denied*, 429 U.S. 1092 (1977)
- Matter of Penn Central Transportation Co., 553 F.2d 12 (3d Cir. 1977)
- New Haven Inclusion Cases, 399 U.S. 392 (1970)
- In re Mammoth Mart, Inc., 536 F.2d 950 (1st Cir. 1976)
- In re Lehigh Valley R.R. Co., 508 F.2d 332 (3d Cir. 1975)
- Denton & Anderson Co. v. Induction Heating Corp., 178 F.2d 841 (2d Cir. 1949)