



UNIFIED SYSTEM DIVISION BMWD/IBT



May 5, 2017

Dear Brothers and Sisters,

I am pleased to announce that the Union Pacific has effectively withdrawn the residence “policy” issued by Engineering VP Greg Workman on February 6, 2017. Your union challenged that policy and the UP now agrees with the Union that an employee can have only one primary residence – that is the residence of record you have supplied to UP. The enclosed letter from UP Assistant Vice President Labor Relations Pat Kiscoan is the full UP response to our challenge.

However, I must stress that when the Union challenged UP on the residence issue, we did so with the understanding that when you supply UP with your residence address it is your legitimate primary residence. That means the residence must be the place you primarily reside, the place you are registered to vote, the address shown on your driver’s license and motor vehicle registration, etc. In other words, there can be no dispute that your primary residence is where you live. That does not mean you cannot own rental properties, a vacation home or the like. In other words, the UP cannot claim you have a vacation home or own a rental income property within 50 miles of your worksite and claim that it is your “residence” for away from home allowance purposes. What it does mean is that you should not use such property addresses as your “residence” for purposes of claiming *per diem* payments or travel allowance payments if your primary residence is within 50 miles of your work location.

Your Union will continue to discuss and refine this issue with UP as issues arise in the field. If you have any questions regarding the primary residence issue or you are having difficulty establishing a *bona fide* change of residence with UP, contact your local system officer or Lodge local chairman for assistance. We will help you get all issues resolved quickly and clearly.

Sincerely,

Louis R. Below
General Chairman



BUILDING AMERICA®

May 3, 2017

Via e-mail and U.S. Mail

Mr. Dennis R. Albers
Mr. Louis R. Below
Mr. Patrick A. Charters
Mr. Hayward J.J. Granier
General Chairmen
Brotherhood of Maintenance of Way Employees
Division of the International Brotherhood of Teamsters
150 South Wacker Drive, Suite 300
Chicago, IL 60606-4101

Re: Vice-President Greg Workman's Memo dated February 6, 2017, and
the "50 mile" Rule

Dear General Chairmen Albers, Below, Charters, and Granier:

As you know, UP's Corporate Audit team conducted an internal audit of per diem and travel expense reimbursement during the second half of 2016. As a result of that audit, several UP employees who are also members of BMWED were found to have defrauded the Company by seeking payments that were not due to them. Several of those former employees elected to resign; some were discharged. Others were asked to repay monies to UP that were accepted by them under suspicious circumstances

On February 6, 2017, Union Pacific Railroad Company's Chief Engineer, Greg Workman, issued a memorandum through which he intended to communicate parameters related to the administration of the "50 mile rule". In response, I received correspondence from you dated February 24, 2017. After receipt of your letter, the matter came up in discussion between us at the meeting Mr. Workman hosted in March. At that time, Mr. Workman acknowledged that the abuse was only from a minority of all Engineering employees, and that he simply trying to provide guidelines to employees so that they would understand what conduct had caused their coworkers to lose their jobs. We have had several conversations in the interim. I write now to ensure that you all have the same information from the Carrier relative to this important matter. I invite further conversation as you deem desirable or necessary.

Due to the audit, UP learned of an especially problematic practice that was used to perpetrate the fraud. Employees have had the ability to access the system that maintains their profile information, including names and addresses. The profile address has been used to calculate per diem payments. Unfortunately, some employees have

accessed the system to change their profile address multiple times over a relatively brief period. For example, in 2016, more than 50 employees changed their address resulting in per diem qualification. Often, though not always, employees changed their address to a temporary housing location. Mr. Workman's memorandum was intended to communicate only that employees who claim multiple homes could only claim per diem based on the home that was closest to the work. Your correspondence has made clear that you wish to remove any such latitude, and to enforce the parties' intent that only the permanent residence be used for per diem calculation. UP agrees.

Based on your correspondence and the cases you have cited, we agree that no per diem allowance is payable to employees who are working within fifty miles of their permanent residence. We also agree that a change in residence means establishing the permanent residence and surrendering the residence at the former location. Rental and bunking arrangements that indicate no intention of establishing a primary residence at a new work location are temporary shelters. An employee can have only one residence at a time, and "temporary commuting arrangements" do not constitute a change of residence.

We also agree that a residence is demonstrated by "overt measures" that establish a permanent home. The following have not been sufficient to demonstrate residence: a rental agreement where the address of the landlord was also the address of employee's relative, and the moving of some household furniture. Temporary housing can be identified in an employee's failure to move spouse or family; failure to hook up or pay utilities; the cessation of utility or cell phone payments after only a month, the absence of moving receipts, and the failure to relinquish a former apartment or home.

Your reference to Rule 2(g) (or similar language in the other agreements) and statement that it was accepted as recognizing what constitutes a residence by the parties during the execution of the April 25, 2012 National Agreement is not accurate. These rules speak to where employees receive their mail, and such mailing addresses are not always the permanent residence (e.g. post office box).

In an effort to reduce fraud related to per diem and travel payments following an employee's change of address, UP Finance will require employees to submit proof of residence within 30 days of the change being entered into the Company system. Employees will be required to establish proof of the change in permanent residence by providing certain documents. I've enclosed a *draft* copy of the communication that will be provided to employees following their change of address. The communication is planned to be rolled out on in early May.

We believe that the changes made by the Finance Department will ensure that our employees understand the ramifications of altering their addresses for the purpose of

qualifying for these payments when they have not changed their permanent residences. I reiterate my offer to meet relative to the per diem and travel allowance matters. Please let me know if you desire such a meeting.

Sincerely,



Patricia O. Kiscoan
Assistant Vice President – Labor Relations

cc: R. Sanchez
D. Scoville
D. Griffin

Enclosure

DRAFT OF EMAIL TO BMW OR BRS EMPLOYEE

As an employee governed by a collective bargaining agreement that allows for employees to receive per diem or travel allowance, you must provide support for your recent address change because this address is used as your permanent residence.

Establishing a new permanent residence requires "overt measures" that establishes a permanent home. You must surrender your residence at the old location. A permanent residence does not include temporary rental and bunking arrangements or locations where mail is acquired. If you have a family, they must normally also relocate. If you have questions concerning whether changing your address is considered temporary or permanent, please contact the UP Finance Department. .

Once you have changed your address within the Company system, you must submit **at least two different** forms of documentation within **30 days** of this notification to establish the new address as your permanent residence. If after 30 days, we have not received the supporting documentation, then you may be subject to discipline up to and including termination plus recollection of travel and/or per diem allowances erroneously paid to you. We also will place a hold on any future travel and/or per diem allowance payments until the necessary is received. By changing your address and submitting the required documentation, you are declaring that you have made a permanent change to your residence.

The documentation must include your name and the permanent residence. Acceptable documentation includes:

- Home service bills including:
 - Electric
 - Water
 - Gas
 - Cable
 - Landline telephone
- Rental/Mortgage contract or receipt including deed of sale for property
- Current automobile, life or health insurance policy (wallet cards will not be accepted)
- Driver's license/ID
- Motor vehicle registration or title
- Receipt for personal property or real estate taxes
-

Submit at least two forms of proof of residency to:

Email: addresschange@up.com

-or -

Fax: (402) 997-3060