

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood Railway Carmen/Division of TCU
(CSX Transportation, Inc.
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter "carrier") violated the provisions of Rule 11 of the Shop Crafts Agreement between Transportation Communications International Union - Carmen's Division and the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carman K. L. Tschop, Jr. (hereinafter "claimant") when on May 11, 1987 the carrier by-passed the claimant on the overtime board.

2. That, accordingly, the claimant is entitled to be compensated for seven and one-half (7 1/2) hours at the applicable Carmen's time and one-half rate for said violation.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This dispute concerns the Carrier's failure to schedule the Claimant for overtime work on May 15, 1987, allegedly in violation of Rule 11, which states in pertinent part as follows:

"(c) Record will be kept of overtime worked and men called with the purpose in view of distributing the overtime equally."

The Rule also requires the maintenance of an overtime call list or call board "available to view of employees."

Among the Organization's contentions is that the General Car Foreman made the "overtime book" unavailable to employees from October or November 1986, until March 1987. Whatever the basis of this allegation, it occurred some months before the incident here under review.


In its initial Claim of June 30, 1987, the Organization includes a list of names on the "wrecking overtime board," showing the Claimant eligible for call on May 15, 1987, prior to another employee, who was called immediately after completing overtime work on the previous day. During the claim handling procedure, the Carrier asserted that the Claimant's name was not on the wrecking overtime list and that the Claimant had not worked overtime "in the weeks surrounding his claim date." No copy of the overtime list itself was offered by either party. Given these irreconcilable contentions, the Board is unable to determine the facts of the Claim. Contentions that the overtime list had been withdrawn and possibly altered at an earlier time are not directly relevant.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of April 1992.