

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

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

STATEMENT OF CLAIM:

1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.), hereinafter referred to as "carrier", violated the service rights of Painter Dale Higgins, hereinafter referred to as "claimant", and the provisions of Rule 11 of the controlling Agreement when on January 18, 1989 the carrier ignored the overtime board in violation of the aforementioned agreement rule and worked Carman Dan Mullins eight (8) hours in the blast area of the Paint Facility.

2. Accordingly, the claimant is entitled to be compensated for eight (8) hours at the applicable rate of time and one-half 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 employee or employees involved in this dispute are respectively carrier and employees 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 Claim is one of three involving the application of the Painters' Overtime Board at Carrier's Raceland Car Shops. During 1989, Carrier was involved in a massive car repair project which taxed the capacity of its Paint Shop. A considerable amount of overtime was worked during that time. On occasion volunteer Carmen were used to supplement the Painters' Overtime Board. Carrier contends that this was done only when the Painters' Overtime Board was exhausted. The Organization argues that on the date of Claim, the Painters' Overtime Board was not exhausted and, in fact, Claimant should have been used for eight hours overtime before the Carman that was called was used.

Review of the record indicates that the facts support the position of the Organization. The Claim will be sustained, but at the straight time rate.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 27th day of May 1992.