

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13382

Docket No. 13275

99-2-97-2-46

The Second Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen, Division of
(Transportation Communications International Union
(CSX Transportation, Inc. (former Baltimore &
(Ohio Railroad Company)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. Carman P.M. Davidson was disallowed the opportunity to avail himself to a preferential position which was assigned to a junior employee in violation of Rule 8 and 15 of the controlling Agreement.
2. That the Carrier be ordered to compensate Carman P.M. Davidson three (3) hours, at the Carman's time and one-half rate of pay in effect on January 24, 1996, account this blatant contractual 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 employee 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 were given due notice of hearing thereon.

During the first shift on January 24, 1996, the Carrier found itself short at least two employees. Because the vacant positions were deemed must-fill, the Carrier asked for volunteers, but no one, including the Claimant, responded. The Carrier then reassigned two day shift employees to the vacancies. The Claimant was one of the two reassigned.

The claim before the Board is not because the Carrier blanked positions and realigned its day force on a temporary basis to cover the unexpected vacancies, but because the Claimant was not assigned to the vacancy that ultimately worked three hours overtime.

The Board finds that no violation occurred. The Carrier asked for volunteers. The Claimant remained mum when he could have volunteered to fill the vacancy that worked overtime, rather than the one he ultimately worked. Furthermore, at the time the employees were reassigned, the Carrier had no idea that the position in question would work three hours overtime.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 12th day of April 1999.