

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 referred to as "carrier", violated the service rights of Painter L. Childers, hereinafter referred to as "claimant", and the provisions of Rule 11 of the controlling Agreement when on February 3, 1989 carrier's supervisor improperly worked Carman Danny Mullins at the Raceland Paint facility on work strictly accruing to the Painter's craft in violation of the aforementioned rule.

2. Accordingly, the claimant is entitled to be compensated for eight (8) hours pay at the applicable Painter'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.

The circumstances in this dispute are similar to those reviewed in Second Division Award 12209, except that the Claimant was in a marked off status. He was thus clearly "unavailable" for overtime work on the second shift.

In this instance, the Board reaches the same conclusion as in the cited Award.

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Award No. 12245
Docket No. 12081
92-2-90-2-179

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deber - Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1992.