

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12523
Docket No. 12236
93-2-91-2-22

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/ TCIU
(
(CSX Transportation, Inc. (former
(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 27 1/2 of the Shop Crafts Agreement between Transportation Communications International Union - Carmen's Division and the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carman A. Flocker (hereinafter "claimant") when on December 28, 29 and 30, 1987 the carrier worked a junior employe in violation of the aforementioned rule.
2. That, accordingly, the claimant is entitled to be compensated for eight (8) hours each day listed above that a junior employe was worked at the applicable Carmen's 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 employe 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.

Under Rule 27 1/2, Furloughed Employees-Use Of, the Claimant was assigned by bulletin to work in the Triple Valve Room at the Raceland Car Shops commencing November 30, 1987. He performed such

work through December 4, at which time he was directed to report as a Burner Welder in Carman Maintenance. He did so from December 7 through December 23, at which time he was advised he was no longer required in Carman Maintenance. December 24-27 involved holiday time and a weekend. On December 28-30, an employee junior to the Claimant worked in the Valve Room. The Organization seeks three days' pay for the Claimant for December 28-30.

The Claimant contends that he was advised on December 23, that he was "no longer needed" and thus assumed there was no further work for him. The Carrier argues that the Claimant should have known that he was expected to return to the Valve Room, based on the original bulletin covering the entire period.

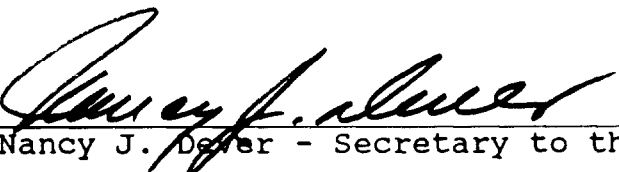
The Board is without sufficient or convincing evidence to resolve this factual dispute. Thus, a clear basis for sustaining or denying the Claim is not available.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 7th day of April 1993.