

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12914
Docket No. 12791
95-2-93-2-148

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

PARTIES TO DISPUTE: (Transportation Communications International
(Union-Carmen Division
(
(CSX Transportation, Inc. (former
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"1. That the Chesapeake and Ohio Railroad (sic) Company (CSX Transportation, Inc.) (hereinafter "Carrier") violated Rule 32(a), 154(a) and 179 1/2 of the Shop Craft's Agreement, Article VI, of the 1986 Mediation Agreement and CSXT Labor Agreement No. 16-48-92 Memorandum of Agreement between Transportation Communications International Union -- Carman's Division and Chesapeake and Ohio Railway Company (CSX Transportation, Inc.) when on September 18, 1992 the carrier assigned other than carmen work of performing air brake tests on train no. 19217 with 45 cars that departed from Richmond Terminal.

2. That accordingly, the carrier be ordered to pay Carman D. E. Grissom, ID #628517, four (4) hours at the applicable straight time rate in accordance with the Shopcraft's Agreement, Rule 7(c) 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 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.

On September 18, 1992 Carrier was performing track work which prevented Train No. 19217 from entering Acca Yard in the Richmond Terminal. As a result the train crew was required to add a train control engine and to perform an air brake test. As a result, this claim was filed.

Both parties cite various Rules and Agreements, plus Awards to support their positions. However, the Carrier admitted during the Hearing before the Board that if it was not for the track work, the train would have been pulled into Acca Yard and the disputed work would have been done by Carmen. It also admitted that the work was done by Carmen before the track work was started and after the track work was completed.

Based on the particular facts of this case, the Board finds that the Carrier violated the Agreement. On the other hand, the Board agrees with the Carrier that the monetary remedy requested is excessive. The Organization has not established how long the work actually took. Accordingly, we will award the Claimant one hour at the applicable straight time rate of pay.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of August 1995.