

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (former Seaboard System
(Railroad)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier recalled junior Trackman S. A. Blanton instead of Trackman R. A. Turner to fill a temporary trackman's position on Extra Floating Force 6T06 on the Jacksonville-Tampa Division on November 10, 11, 12, 13, 17, 18 and 19, 1986 [System File 37-SCL-87-1/12-13 (87-420) Q].

(2) As a consequence of the aforesaid violation, Mr. R. A. Turner shall be allowed seventy (70) hours of pay at the trackman's rate."

FINDINGS:

The Third 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.

Claimant and S. A. Blanton hold trackman positions. Claimant is senior to Blanton. At the time the dispute arose, Claimant and Blanton were on furlough due to a force reduction. Blanton was recalled over Claimant to fill a temporary trackman vacancy on the dates set forth in the Claim. The Organization asserts that Claimant was not contacted by the Carrier to fill the vacancy prior to utilizing the junior employee. The Carrier argues that it attempted to call Claimant, but he did not answer the phone.

Close review of the record shows that the Carrier has not sufficiently rebutted the Organization's showing that Claimant was not called. While the Carrier states that it made attempts to call Claimant, there is no probative evidence in the record upon which we can rely concerning the extent of those efforts. Because of that lack of evidence, we must sustain the Claim for 70 hours at the straight-time trackman's rate of pay, as submitted.

Form 1
Page 2

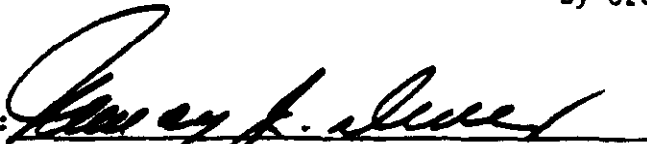
Award No. 28752
Docket No. MW-28323
91-3-88-3-78

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1991.