

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(
(CSX Transportation, Inc.

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10462) that:

1. Carrier violated the Agreement when on Sunday, July 31, 1988, the Carrier instructed Trainmaster C. K. Grigsby to work Position 217, a clerical position.

2. The Carrier shall now compensate the Senior Available Clerk eight (8) hours' pay at the appropriate rate for Position 217 on Sunday, July 31, 1988.

FINDINGS:

The Third 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 employees 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.

On July 31, 1988, a vacancy arose on the second shift Crew Caller position at Nashville, Tennessee, due to the absence of the incumbent. Because the Guaranteed Extra List was exhausted, the Carrier called all employees on the overtime list for this position. This list consists of qualified employees who have indicated their willingness to work the position when needed. All employees contacted by the Carrier, however, declined to work. Because it was necessary for the duties of the position to be performed, the Trainmaster, who is not covered by the Agreement, did the work.

During the handling of this dispute on the property, the Organization asserted the Carrier was required to call an unqualified employee for the vacancy if all qualified employees declined the work. Before this Board, however, the Organization argues the Carrier was obligated to exercise its right under the Agreement to direct the junior employee on the overtime list to

protect the vacancy. This argument, which is the only one advanced by the Organization before this Board, was not made during the handling on the property. The Carrier has properly objected to the Board's consideration of this argument. Furthermore, such an argument is inconsistent with the Statement of Claim, which is on behalf of the senior employee.

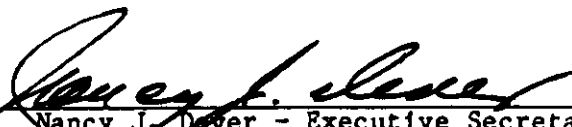
In the absence of the aforementioned argument being made by the Organization on the property, this Board must deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

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