

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29678
Docket No. MW-29965
93-3-91-3-358

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (formerly
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood
that:

(1) The Agreement was violated when the Carrier assigned junior employe Mr. J. Horner instead of Mr. T. Goodon to fill a position on Force 6G05 beginning April 4, 1990 until April 30, 1990 [System File C-TC-7021/12(90-594) COS].

(2) As a consequence of the aforesaid violation, Mr. T. Goodon shall be allowed one hundred forty four (144) hours of pay at his pro rata 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 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 of hearing thereon.

The Claimant alleges that, beginning on April 4, 1990, he continually requested that the Carrier assign him any available temporary work while he was on furlough. Upon being recalled from furlough, he alleges, he discovered that temporary work had been available and had been assigned to a junior employee.

In its denial letter of June 7, 1990, the Carrier states:

"Mr. Goodon did call this office asking about jobs available to him. When he was advised of temporary positions he might possibly work, he told this office he did not want to work temporary jobs, only permanent as it was too far to drive just for temporary work."

The Board finds that it has been presented with irreconcilable statements of fact in this matter, and, under well-established precedents, the Claim must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest


Nancy J. Dever, Secretary to the Board

Dated at Chicago, Illinois this 29th day of June 1993.