

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29732
Docket No. MW-29501
93-3-90-3-432

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (formerly The
(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 Trackmen M. Rowllins, Taylor Slone and W. Bryant instead of senior Trackman Terry G. Slone to perform trackman's work on Gang 6G21 headquartered at West Prestonburg on May 15, 16, 17, 18 and 22, 1989 [System File C-TC-4687/12(89-809) COS].
- (2) As a consequence of the aforesaid violation, Mr. T. G. Slone shall be allowed fifty (50) hours of pay at the trackman's straight time 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 at hearing thereon.

The Claimant, a Trackman, was in furlough status and was senior to three other Trackman, also on furlough. The Carrier recalled the three junior Trackman to temporary vacancies in a regional gang on May 15-22, 1989, pending filling of bulletined positions.

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This Claim is closely similar to that reviewed in Third Division Award 29730, and such reasoning is incorporated herein. The Board reaches the same conclusion as in that Award.

There is one aspect of the Claim to be noted. The Claimant stated in his initial Claim that he had made the appropriate notation on his cut-off form as to his wish to be called for temporary work. To this the Carrier replied, "If the Claimant had in fact requested such work on his re-call form 5A, this would not have been reviewed as this was not a re-call." In view of the specific language of the appropriate Rule 5(c), the Carrier's defense is without foundation.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Nancy J. Dever
Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 12th day of August 1993.