

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29788
Docket No. CL-30296
93-3-92-3-51

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

(Transportation Communications International
(Union
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard
(Coastline Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood (GL-10646) that:

1. Carrier violated the Agreement(s) when Carrier refused to compensate Mr. B. R. Cesario time and one-half for being held out of assignment to train a new Clerk. Days held out of assignment - July 2, 3, 5, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25 and 26, 1990.
2. Carrier violated the Agreement(s) when Carrier refused to compensate Mr. B. R. Cesario the higher rate of pay when held from assignment 4T24-151 to train a new Clerk.
3. Carrier shall compensate Mr. B. R. Cesario time and one-half for all days held out of assignment at the higher rate of pay of his awarded assignment."

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.

Claimant here was the successful applicant for a Data Processing Clerk position (rate of pay \$108.11) effective June 29, 1990. He was held in his former position of AAR Clerk (rate of pay \$104.60) until July 27, 1990, to train his replacement.

A lengthy discussion of the various competing contentions of the parties is not warranted here because we find a prior Award of this Board establishes controlling precedent. In Third Division Award 29490, involving these same parties, the Board was faced with essentially the identical fact pattern and alleged Rule violations as we have on the merits here. That Award found the Carrier to be in violation of Rule 11 of the effective Agreement and directed the Carrier to provide compensation equal to the difference in rates of pay of the respective positions.

On this record, we find no reason to deviate from the rationale set down in Award 29490 or the precedent established by it. Accordingly, Carrier is directed to pay Claimant additional compensation equal to the difference in pay he would have received had he been allowed to assume the Data Processing Clerk position in a timely manner per Rule 11.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin rh
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 20th day of September 1993.