

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30227  
Docket No. MW-29750  
94-3-91-3-99

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. (former 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 employee S. Barker instead of Mr. D. R. Johnson to fill a machine operator position (three-way dump truck) at Seth, West Virginia, on January 2, 3, 4, 5, 8, and 9, 1990 [System File C-TC-5099/12(90-300) COS].
- (2) As a consequence of the aforesaid violation, Mr. D. R. Johnson shall be allowed forty-eight (48) hours of pay at the Class 'A' Operator's rate and he shall be allowed six (6) additional days' credit towards his 1990 vacation qualifying time."

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 employee 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.

In this Claim, the Claimant, then in furlough status, seeks pay for work which he states should have been performed by him on January 2, 3, 4, 5, 8, and 9, 1990.

These are among the dates involved in Third Division Award 30226 and for which the Board sustained the Claim. Since the dates herein duplicate those of the previous Claim, there is no basis to consider further payment to the employee, even if, on the merits, the Claim were to be sustained.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Linda Woods  
Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 8th day of June 1994.