

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30261  
Docket No. MW-30144  
94-3-91-3-580

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. (former Louisville  
(and Nashville Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the  
Brotherhood that:

- (1) The Agreement was violated when the Carrier did not call Foreman J. L. Skinner to perform overtime service on August 11, 1990, on his assigned section and instead assigned Roadmaster E. K. Keeton [System File 12(12)(90)/12(90-914) LNR].
- (2) As a consequence of the violation referred to in Part (1) above, Foreman J. L. Skinner shall be paid eight (8) hours at his time and one-half 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 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.

This is a time claim in which the Organization contends that three Laborers were called to work with the Roadmaster in unloading equipment on August 11, 1990, and that the Roadmaster did not call a Foreman, but elected to perform the work himself.

The Carrier contends that the Roadmaster did not perform any work assigned to the position of Foreman on that date, but instead used an on-duty, qualified Foreman to work with the three Laborers when the regularly-assigned Foreman failed to report for duty.

It is clear that the Board has neither the authority nor the competence to resolve factual disputes such as that presented in this case. Having been presented with irreconcilable statements of facts, we must accordingly follow a long line of precedents of the Board and dismiss the claim.

AWARD

Claim dismissed.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 19th day of July 1994.