

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30524
Docket No. MW-30076
94-3-91-3-489

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 Employes
(
(CSX Transportation, Inc. (former Seaboard
(System Railroad)

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

- (1) The Agreement was violated when the Carrier assigned Maintenance of Way Track Subdepartment employe Mr. W. A. Lee to perform the Maintenance of Way General Subdepartment, Group D, drawbridge operator's work of operating the lower Savannah River drawbridge between Milepost AK 459.5 and Milepost AK 454.3, i.e., between Augusta, Georgia and Beech Island, South Carolina on March 16, 24, April 6, 14, 16, 20, 21, 25, 26, 27, 28 and 29, 1990 and continuing on dates subsequent [System File 90-48/12(90-694) SSY].
- (2) As a consequence of the aforesaid violation, Florence-Savannah Seniority District Maintenance of Way General Subdepartment, Group D, Drawbridge Operators J. L. Strickland, R. N. Youngblood, L. A. Dickerson, R. J. Seckinger, T. E. Litchfield, J. D. Youngblood, K. Waye, F. D. Seckinger, E. Pollins, J. W. Curtis and C. E. Gowen shall each be allowed pay at their respective time and one-half rate for an equal proportionate share of the total number of man-hours expended by employe improperly assigned to perform the work described in Part (1) beginning March 16, 1990 and continuing on dates subsequent."

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.

The Claimants herein hold seniority in the Maintenance of Way General Subdepartment, Group D as Drawbridge Operators on the Florence-Savannah Seniority District. The claim concerns the operation of the Carrier's lower Savannah drawbridge during March-April 1990 and thereafter for the purpose of permitting a ship of the Augusta Riverboat Cruises to navigate the river where the drawbridge is in place. The Carrier is not required to maintain personnel on the drawbridge at all times, owing to the sparse traffic which requires the drawbridge to be opened.

For this purpose, the Carrier called an employee of the Maintenance of Way Track Subdepartment to operate the drawbridge. That employee lives near the drawbridge.

The Claimants all live some distance from the drawbridge. Such distance ranges from 93 to 243 miles. The Carrier argues that it is impractical to call one of the Claimants, because the need for drawbridge operation cannot wait until one of the Claimants is called and arrives at the scene. The Organization contends that the cruise ship has a published schedule, and the need for drawbridge operation can readily be predicted.

Third Division Award 30068 resolved an identical dispute, except as to dates. That Award stated:

"Finally, with respect to Claimants' reported 'availability' for work, Carrier asserts without refutation that Claimants reside 129 and 137 miles, respectively, from the bridge in question. As the Board held in Third Division Award 22234, 'long distance [from the site of the work] . . . may render an employee unavailable.' In this case, the peculiar immediacy of the work may reasonably restrict the distance within which an employee must reside in order to be considered 'available' for work."

For the sake of consistency and orderly application of the parties' Agreement, previous decisions under identical circumstances should be followed, unless gross error or a different fact situation is found. The Board finds Award 30068 does involve the same facts, and there is no basis to reverse its conclusion.

Form 1
Page 3

Award No. 30524
Docket No. MW-30076
94-3-91-3-489

AWARD

Claim denied.

ORDER

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 9th day of November 1994.