

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30761
Docket No. SG-30951
94-3-92-3-851

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad (CSXT):

Claim on behalf of R. D. Price for payment of the difference between the Signalman's rate and the Lead Maintainer rate for all hours worked between August 1, 1991, and October 1, 1991, and payment for all overtime hours worked by the employee assigned to the Cartersville, Georgia, Lead Maintainer position during that same time, account Carrier violated the current Signalmen's Agreement, particularly Rules 17, 29, 31, 32, 46, 48, 49 and 50, when it failed to assign the Claimant to the above-referenced position of Lead Maintainer." Carrier's File No. 15(92-7). General Chairman's File No. 92-208-01. BRS Case No. 8832-L&N.

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.

On April 23, 1991, Carrier awarded Bulletin AS-006 for the position of Lead Signal Maintainer headquartered at Cartersville, Georgia, to an employee junior to Claimant. In response to the Organization's formal protest regarding proper bulletining of the position, Carrier rebulletined the position as No. AS-010. Claimant bid on, and was awarded the position. Subsequently, on August 1, 1991, Carrier canceled Bulletin No. AS-010, and

reassigned the position to the employee who had been awarded the position under Bulletin AS-006. In the notice of cancellation, Claimant was instructed to return to his former position as Signaller on System Force 7X44.

A claim was initiated on behalf of Claimant on September 23, 1991. That claim was denied and subsequently processed in the usual manner, up to and including the highest Carrier officer empowered to handle such matters. Following discussion of the claim in conference on February 19, 1992, the matter remained unresolved.

Carrier protested that Claimant has no entitlement to the position advertised in AS-006, since he was not among the initial bidders. By acceding to the Organization's protest of that bulletin, however, Carrier acknowledged that the initial posting was flawed. In the circumstances of this particular case, therefore, Bulletin AS-006 must be considered void ab initio. With respect to the remedy sought, the Organization presented no evidence to document the number of hours, either regular or overtime, worked by the junior employee. Accordingly, Claimant is entitled only to the difference between what he would have earned as a Lead Maintainer and his pro-rata rate of pay for the hours Claimant worked during the period in question.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 24th day of February 1995.