

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30981
Docket No. MW-30774
95-3-92-3-613

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

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

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when, on February 9, 1991, it assigned junior Track Repairman F. L. Martin and G. L. Bullock to perform five (5) hours of overtime work repairing track at Richmond, Kentucky at Mile Post 119.2 instead of assigning C. Miracle in recognition of his superior seniority. [System File 1(21)(91/12(91-836) LNR]
- (2) As a consequence of the violation referred to in Part (1) above, Claimant C. Miracle shall be compensated five (5) hours pay at the track repairman's 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 claim, submitted to the Board by the Organization on August 6, 1992, presents the identical issue presented by Docket MW-30649, submitted by Carrier to this Board on April 29, 1992.

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The controversy has been determined based upon the record in Docket MW-30649 (Third Division Award 30978) and, accordingly, this claim must be dismissed. See Third Division Awards 30782 and 30783.

AWARD

Claim dismissed.

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 26th day of July 1995.