

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32531
Docket No. CL-32968
98-3-96-3-348

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11224) that:

1. Carrier violated the Agreement, Guaranteed Extra Board, Rule 18, and others, on or about January 6, 1995, and continuing through the month of January, 1995, when it improperly called GXB Clerk D. E. Altman to protect work at Spartanburg, South Carolina, which is on a seniority district not assigned to him, subsequently denying proper personnel the work and compensation thereof.
2. Because of the aforementioned violation, the CSX Transportation shall now be required to compensate the Senior Available Clerk the same amount compensated D. E. Altman, which is outlined in Attachment ‘A’ of this claim.”

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 were given due notice of hearing thereon.

At issue in this case is application of the Parties' Guaranteed Extra Board (GXB) Agreement, in particular Section I, which reads, in pertinent part, as follows:

"Pursuant to Rule 18(f) of the current working agreement reading:

(f) When it is mutually agreed, extra boards may be established; and rules governing the manner of working the extra boards will be in writing. Agreement covering extra boards must be signed by the appropriate Carrier Officer and the General Chairman or Vice General Chairman.

*** * ***

Incumbents of such extra board will have preferential rights, to the extent of forty (40) straight time hours, when filling vacancies referred to in Paragraph (a), 'cubbing' or assisting other occupants of positions covered by the agreement, due to an influx of work not exceeding five (5) consecutive days."

The claim arose when, on January 6, 1995, and continuing through the month of January 1995, the Carrier called GXB Clerk D. E. Altman to protect extra work at Spartanburg, South Carolina, located in Seniority District No. SC03. Clerk Altman was assigned to Seniority District No. SC02 located at Hamlet, North Carolina. The Organization protested the assignment of Clerk Altman in a claim dated February 5, 1995. The claim was denied on March 21, 1995, and subsequently appealed in the usual manner.

During the processing on the property, the Carrier maintained that Altman was dispatched to Spartanburg, South Carolina, due to an extreme shortage of clerical employees. It contended that if there had been any employees available on the Florence Division No. 3, they would have been used before Clerk Altman. At the conference between the Parties held on July 19, 1995 the Organization provided Carrier with a list which it asserted contained the names of Extra Board employees assigned to the

Florence Division Guaranteed Extra Board who were available on each of the dates Clerk Altman worked. In its final declination following the conference the Carrier justified its use of Clerk Altman by citing an "extreme shortage of clerical employees."

A careful review of the record indicates that Carrier failed to successfully refute the Organization's contention that there were GXB employees from the Seniority District in question available to work on the days Carrier employed GXB Clerk Altman. In light of that, the Organization met its burden of persuasion in this case. For each day Clerk Altman worked during the dates at issue, Carrier and the Organization shall mutually establish the GXB employees in the Seniority District who properly would have received payment.

AWARD

Claim sustained.

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 25th day of March 1998.