

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32558
Docket No. MW-31723
98-3-93-3-762

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 Employees
(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned and/or allowed Norfolk Southern Railroad employees W. Hayes and J. Houghe to perform Welding Subdepartment work of heating, welding and grinding at the Norfolk Southern/CSXT Interlocking near Mile Post ANJ910.8 at Talladega, Alabama on the Lineville Subdivision of the Atlanta Division on October 5 and 6, 1992 [System File 92-262/12(93-170) SSY].
- (2) As a consequence of the violation referred to in Part (1) above, Atlanta-Waycross Group A Welding Subdepartment employees H. B. Taunton and B. L. Dollar shall each be compensated for an equal proportionate share at the appropriate Group A Welding Subdepartment rate for thirty-two (32) hours' pay at their respective straight time rates and sixteen (16) hours' pay at their time and one-half rates.”

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.

On October 2, 1992 a collision occurred between a Norfolk Southern train and a CSXT train at a crossing near Talladega, Alabama. There is no dispute that the tracks within this crossing are maintained by CSXT employees. Track repair work required as a result of the collision was performed by NS employees, and the Organization contends that such work should have been assigned to CSXT employees.

The Carrier argues to the contrary, stating that the repair work was performed on track under NS control and not on track within the crossing. (Travel by CSXT trains through the crossing was not interrupted.) The Organization contends that such information was not provided in the on-property handling. However, the Carrier's Submission includes a letter dated November 15, 1993 with attachment to the General Chairman containing this information. Obviously, this document pre-dated the Organization's Notice of Intent to the Board, which was filed on December 29, 1993.

The Board has no basis to question the authenticity of this correspondence, nor to find that it was untimely. Given this circumstance, there was no invasion of rights of CSXT employees to maintain the crossing, in contrast to tracks of each Carrier leading to the crossing.

AWARD

Claim denied.

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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 29th day of April 1998.