

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32719
Docket No. MW-32614
98-3-95-3-178**

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

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it improperly withheld Class A Operator M. Royster from service beginning June 10 through 24, 1993 [System File C-TC-5597-SPG/12(93-844) CSX].**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. Royster shall be allowed one hundred ten (110) hours' pay at the applicable Class A Operator's rate. Moreover, such compensation shall be credited toward vacation and retirement qualification.”**

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.

The focus of the dispute in this matter is whether Claimant was disqualified and failed to timely exercise his seniority, resulting in the loss of work claimed, or whether he was improperly withheld from service pending an Investigation into possible misconduct.

Carrier did not file a Submission with the Board. Accordingly, we are left only with the position, assertions and evidence contained in the Organization's Submission. Review of that material reveals adequate support for the claim. The on-property correspondence establishes that a charge letter was issued. In addition, Claimant's written statement establishes that he was withheld from service. Being uncontroverted by any evidence from the Carrier, we must sustain the claim.

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 19th day of August 1998.