

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33979
Docket No. SG-34680
00-3-98-3-339**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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:

Claim on behalf of R. L. Beach for payment of eight hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Cincinnati Terminal Agreement, when it used a junior employee instead of the Claimant to perform overtime work on April 16, 1997. Carrier’s File No. 15(97-126). General Chairman’s File No. 97-176-3. BRS File Case No. 10532-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 were given due notice of hearing thereon.

At all material times herein the Claimant was assigned as a Signal Maintainer at the Cincinnati Terminal when the Carrier assigned a junior employee, rather than the Claimant, to fill a vacant position created by the absence of a second shift Signal Maintainer.

In the instant matter the record shows that subsequent to the filing of the claim, and before the Notice of Intent was filed, the Carrier issued the Claimant a check in payment of this claim as well as two others. Thus, the matter is moot and the Board is deprived of jurisdiction to resolve the matter.

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 28th day of March, 2000.