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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37126
Docket No. SG-37621
04-3-02-3-752**

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (CSXT):

Claim on behalf of R. C. Lawrence, for one hour at his straight time rate of pay for every day the Claimant is required to operate a vehicle that requires a CDL drivers license starting from July 30, 2001, until this dispute is resolved, account Carrier violated the current Signalmen's Agreement, particularly CSXT Labor Agreements 15-18-94 and 15-045-94, when it required him to drive a truck which requires a CDL drivers license and failed to compensate him according to the Agreement. Carrier's File No. 15(02-0015). General Chairman's File No. BWE-2-01-02. BRS File Case No. 12410-B&O.”

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.

Commencing June 28, 1999 through June 3, 2002, the Claimant was assigned to position number 825 (Lead Signaller) on force 7KAB Division Maintenance Gang with fixed headquarters located at Tiffin, Ohio. The Claimant works Monday through Friday with Saturday and Sunday as rest days. It is not disputed that the Claimant possesses a Commercial Driver's License ("CDL") and, on a daily basis in the performance of his duties, the Claimant operates a Carrier vehicle which requires the driver to possess a CDL.

In its September 30, 2001 claim, the Organization alleged that the Carrier violated CSXT Labor Agreement Nos. 15-18-94 and 15-045-94 when it failed to compensate the Claimant in accordance with the terms of Article III, Subsection E(2) of CSXT Labor Agreement No. 15-18-94, which incorporates by reference a portion of CSXT Labor Agreement No. 15-045-94.

CSXT Labor Agreement No. 15-18-94 which was entered into on November 21, 1994 provides:

"Article III SYSTEM SIGNAL CONSTRUCTION GANGS

* * *

- E. (1) The workday for employees in System Signal Construction Gangs shall commence and end at the work site. An arbitrary of 30 minutes at the straight time rate will be allowed each member of the gang for each day service is performed in lieu of the amount which would otherwise be provided under Rule 62 of the Agreement for travel to/from the location of the lodging and the work site. Such employees will be furnished free transportation between the lodging facility and work site.

(2) Drivers of company vehicles used to provide transportation to and from the lodging facility and work site shall be allowed an additional arbitrary of one hour at the Signalman's straight-time rate as compensation for the time spent driving in both directions, completing necessary reports inspections etc. Employees are required to have a Commercial Driver's License as further detailed in CSXT Labor Agreement No. 15-045-94 (attached)." (Emphasis added.)

CSXT Labor Agreement No. 15-045-94, which was entered into on June 8, 1994, reads in relevant part as follows:

"Employees that operate equipment or vehicles that require a CDL license will be required to have the appropriate commercial driver's license (CDL) as indicated herein. Employees not possessing a CDL will have 60 days following assignment to construction positions to obtain a CDL. The Carrier will provide the necessary training, medical examination if required, the vehicle for the driving test if applicable, and reimburse employees for time and/or expense required to obtain and maintain a CDL." (Emphasis added.)

The Organization progressed the claim on the basis that the Claimant's mere possession of a CDL and driving a CDL-required vehicle triggered the arbitrary payment while the Carrier denied the claim on grounds that his job classification was the determining factor.

The simple key to this particular case is that the Claimant did not drive the company vehicle to transport System Signal Construction Gang employees to and from a lodging facility and their work site. In other words, the Claimant did not qualify for the one-hour arbitrary because he was regularly assigned to a Division Maintenance Gang which had fixed headquarters, as opposed to a System Signal Construction Gang. He obviously was not ". . . used to provide transportation to and from the lodging facility and work site . . ." as specified in Article III, Subsection E(2) supra. If the parties had intended to include employees assigned to other than System Signal Construction Gangs, being the skilled negotiators that they are, they could easily have said so.

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AWARD

Claim denied.

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 25th day of August 2004.