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**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 38084  
Docket No. SG-38217  
07-3-04-3-128**

**The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.**

**PARTIES TO DISPUTE: (**  
**(Brotherhood of Railroad Signalmen**  
**(CSX Transportation, Inc. (former Louisville and**  
**( Nashville Railroad)**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (formerly Louisville & Nashville):**

**Claim on behalf of J. W. McAllister, for 30 hours pay at the Signalman’s rate, account Carrier violated the current Signalman’s Agreement, particularly Rules 12, 14, 15, 16, 17, 18, 33, 46 through 50, 66 and Appendix DD, when on February 11, 2003, the Claimant, who was working on Gang 7XD7, was displaced by another employee; he in turn reported to and displaced an employee on Gang 7V16, with a work assignment that began on the Claimant’s work cycle on his former Gang 7XD7, but at the end of the work cycle of the gang he displaced to Gang 7V16; as a result the Claimant was not allowed to work a 40-hour workweek losing 30 hours work time, account Carrier would not allow him to work as Carrier did for the employee the Claimant displaced. Carrier’s File No. 03-0038. General Chairman’s File No. 03-SYS-2. BRS File Case No. 12810-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.

The Claimant was assigned as a Signalman on a System Signal Construction Gang that was scheduled to work eight consecutive ten-hour days with six consecutive rest days. On Tuesday, February 11, 2003, the Claimant was displaced from Gang 7XD7 by a senior employee. The Claimant subsequently exercised his seniority to displace onto Gang 7V16 which, on February 11, 2003, was at the end of the cycle for that gang's work period. Gang 7V16 resumed duty on February 18, 2003, with the Claimant working as a member thereof.

This penalty claim alleges that the Carrier somehow violated the litany of Rules cited therein because the Claimant did not perform service on the full work cycle of Gang 7XD7.

From the Board's review of the record as it was developed during the on-property handling of this case, it is apparent that the Claimant elected to make his displacement to Gang 7V16 even though there were opportunities to displace onto Gang 7XD7, which would have precluded his loss of work during the work cycle. To be sure, the Claimant had the right to exercise his seniority anywhere it would take him. His own choice in this instance caused him to work less than a full work cycle.

There is no evidence to support any violation by the Carrier of any of the plethora of Rules cited by the Organization. There is no probative evidence to prove that the Claimant attempted in any way to make up any of the lost work time. The record clearly reflects that the Claimant of his own volition elected to place himself in the position in which he was found between February 11 and February 18, 2003. The claim has no merit and is therefore denied.

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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 21st day of February 2007.