

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40242
Docket No. MW-37492
09-3-02-3-574**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(CSX Transportation, Inc.

PARTIES TO DISPUTE: (

(Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

“Consider this as a grievance/claim on behalf of Mr. Ruggieri, ID# 516792, who is assigned to SPG 5XT9, because Carrier is denying him a single sleeping room which is needed due to his medical condition.

As you know, although PEB-219 provided the Carrier the right to bunk its SPG gang employees two to the room, in certain instances where medically necessary, the Carrier has allowed single occupancy room accommodations. In this instance, based on the medical evidence, a single room is necessary [System File D21117102].”

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.

This claim is identical to the claim adjudicated in Third Division Award 40243; this case was docketed following the Carrier's notice to the Board of its intent to file. Evidence on the record and correspondence between the Parties is identical. Accordingly, the present case is moot, having already been decided in Award 40243.

Accordingly, the present claim is dismissed.

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 21st day of December 2009.