

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41093
Docket No. MS-41420
11-3-NRAB-00003-100340**

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

PARTIES TO DISPUTE: (J. S. Miles, Jr.
(
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

- “1. Claiming 7 days overtime pay at the rate of Savannah, Ga. General Clerk’s position 4J10-173 account the carrier violated Rule 12, as well as others, of the SCL/TCU clerical collective bargaining agreement, when on the dates of March 23, 30, April 6, 13, 20, 27, and May 4, 2009, all Mondays, the carrier used unqualified employees, either A. B. Colson, ID XXXXXX, or W. A. Johnson, ID XXXXXX, to protect the Monday rest day of employee J. S. Miles, Jr.
2. The carrier shall now be required to pay claimant, J. S. Miles, Jr., ID No. XXXXXX, 7 days pay at the overtime rate of \$281.91 per day, totaling \$1,973.37, for the above mentioned violations.”

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 instant dispute is virtually the same as the dispute decided by the Board in Third Division Award 41092. The sole differences are the dates of claims and this dispute adds another employee, W. A. Johnson, a guaranteed extra board Clerk who was required to work on a position for which, according to the Petitioner, she was not qualified. In all other respects, including on-property correspondence, the two disputes are identical.

In Award 41092, the Board dismissed the claim on the grounds that the Petitioner had filed his claim untimely, and also on the merits. For the same reasons set forth in Award 41092, this 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 18th day of October 2011.