

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 29727  
Docket No. MW-29461  
93-3-90-3-392

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(CSX, Transportation, Inc. (formerly The  
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the  
Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Welder D. Hanshew and Welder Helper A. Nutter instead of Trackman T. D. Atkins to perform trackman's work from April 8 through May 1, 1989 [System File C-TC-4894/12(89-716) COS].
- (2) As a consequence of the aforesaid violation, Mr. T. D. Atkins shall be allowed forty-eight (48) hours of pay at the trackman's straight time rate and ninety-six and one-half (96.5) hours of pay at the trackman's time and one-half rate."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 waived right of appearance at hearing thereon.

The Claimant is a Trackman who was in furlough status. The Claim concerns track work allegedly performed between April 8 and May 1, 1989, by a Welder and Welder Helper in company with track maintenance forces. Evidence provided by the Organization con-

sisted of time sheets indicating "Assist surfacing force", "Dump ballast", and Assist Switch Tamper", with appropriate accounting codes.

After the Claim was initiated, the Carrier contended that improper codes had been used and that the Welders had not performed track work. "Corrected" time sheets were furnished. These not only changed the so-called erroneous accounting codes but also provided revised duties of "Field weld rails". The contention also was raised that the Welders' permission to access the track was utilized, since the foreman involved did not have the authority to obtain such permission.

Reviewing the full record, the Board is persuaded that the initial documentation provided by the Organization is sufficiently convincing evidence, particularly since much of the time charged was for overtime work, presumably beyond the Welders' regular work schedule. The three-week work period supports assignment of the appropriate employee classification, here, a Trackman. The Board further notes that the claim properly is only for the hours worked by one of the two Welders.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Nancy J. Dever  
Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 12th day of August 1993.