

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30969
Docket No. MW-30182
95-3-91-3-629

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company)

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

- (1) The Agreement was violated when the Carrier failed to assign Track Foreman W. F. Napier to perform overtime service at Mile Post KC-11.8 on August 11, 1990. [System File 1(43)(90)/12(90-1049) LNR].
- (2) As a consequence of the aforesaid violation, Track Foreman W. F. Napier shall be allowed sixteen (16) hours' pay at his time and one-half rate of pay."

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 waived right of appearance at hearing thereon.

Claimant, a Foreman, was assigned to the Cincinnati Seniority District working under Assistant Roadmaster W. Morris with Saturday and Sunday rest days.

On Saturday, August 11, 1990, a derailment occurred at Mile Post KC-11.8 near Grants Tunnel on the Cincinnati Seniority District which was in Roadmaster D. W. McLaughlin's territory. Roadmaster McLaughlin needed extra help to work on the derailment

and called Assistant Roadmaster Morris to supply additional employees from Morris' territory. Two Trackmen, R. P. Scott and J. C. Wigglesworth, were called to work the derailment. Claimant, who is senior to Scott and Wigglesworth and is their Foreman, was not called.

Rule 30(b) requires that in order to be considered for calls on rest days employees must provide a means for the Carrier to contact them and such calls will be made in seniority order as the need arises. The Carrier generally asserted that Claimant did not have his telephone number registered with either Morris or McLaughlin and therefore was not called for the work in question. However, Claimant provided a detailed statement asserting that his phone number was registered with Morris; Morris lives in the same town as Claimant and has called him in the past; Claimant's phone number was registered with J. V. Grupposo who is Morris' Roadmaster; and his number was also registered with Chief Engineer R. E. Frame.

Claimant's detailed statement that his phone number was appropriately registered was not factually rebutted by the Carrier with similar probative evidence. The record therefore sufficiently shows that Claimant's phone number was registered as required. Claimant's seniority therefore entitled him to be called for the work in question.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of July 1995.