

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33456
Docket No. MS-34501
99-3-98-3-67**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(J. S. Miles, Jr.

PARTIES TO DISPUTE: (

(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad Company)

STATEMENT OF CLAIM:

“This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file Ex Parte Submission within thirty (30) days covering an unadjusted dispute between me and CSX Transportation, Inc., involving the questions:

My time claim dated January 19, 1996, claiming \$11,500.00 transfer allowance account going back on my seniority (from a non-contract position), and finding no work available within 30 miles of my headquarters due to a previous transfer of clerical work from Savannah, Ga. to Jacksonville, Fla., being forced to transfer from Savannah, Ga. To Jacksonville, Fla. to continue my employment relationship with CSX.

CSX's file number is 6(96-0033) and TCU's file number is 55.2(9)SCL.”

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.

Claimant has a clerical seniority date of January 17, 1972 and worked in Savannah, Georgia, until his promotion to a non-contract position in January 1991. He worked in Michigan until August 1993 and returned to Savannah where he continued in a non-contract position until November 1995 when he was released and returned to the clerical craft.

In August 1994 work was transferred from Savannah to the new Customer Service Center (CSC) in Jacksonville, Florida. No positions were established at Jacksonville as a result of this work transfer.

Claimant alleges that when he returned to the clerical craft in November 1995, there was no work for him in Savannah as a result of this consolidation and he was forced to accept a position in Jacksonville to maintain his employment relationship. He seeks the same transfer benefit options offered to employees in Savannah as set forth in Side Letter No. 2 of the parties' January 29, 1991 Implementing Agreement.

Carrier raises two arguments before the Board, one dealing with a procedural defect in the manner of claim processing and the other dealing with our jurisdiction to entertain this dispute. We reject both arguments without comment as to their validity, because we feel that the matter is best resolved by its merits.

Carrier contends that Claimant failed to establish any direct relationship between the August 1994 transfer of work and his exercise of clerical seniority in November 1995. It notes that Claimant's voluntary transfer was in no way connected to the CSC. Carrier avers that Claimant was not a contract employee at the time of the consolidation and was not covered by the terms of the January 29, 1991 Implementing Agreement.

After a careful review of the record, and consideration of the arguments raised by each party, the Board is of the opinion that this claim must be denied for two distinct reasons. First, Claimant failed to prove any causal nexus between the consolidation in August 1994 and his transfer to a position in Jacksonville outside the CSC in November 1995. Claimant did not exercise his seniority to return to the clerical unit at the time of the consolidation, and was thus not an affected employee under the terms of the January 29, 1991 Implementing Agreement. Second, there is no evidence in the record of any positions being transferred from Savannah to Jacksonville as a result of the

consolidation of work. Claimant cannot show that he accepted a position in Jacksonville that previously existed in Savannah. Therefore, Claimant failed to sustain his burden of proving that he was entitled to the transfer benefits offered to affected employees at the time of the transfer of work.

Accordingly, the claim must be denied.

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 23rd day of August 1999.